BANK OF ENGLAND

Financial Market Infrastructure

Policy Statement

The Bank of England's approach to tiering incoming central counterparties under EMIR Article 25

June 2022

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Contents

1 Overview

1.1 This Bank of England (the 'Bank') Policy Statement (PS) provides feedback to responses to the Consultation Paper (CP) published in November 2021 titled 'The Bank of England's approach to tiering incoming central counterparties (CCPs) under EMIR Article 25' (the 'tiering CP').[1] It also contains the Bank's final Statement of Policy (SoP) 'The Bank of England's approach to tiering incoming central counterparties under EMIR Article 25' (Appendix 1).

1.2 This PS is relevant to incoming CCPs that are seeking recognition by the Bank to provide clearing services in the UK (including those currently in the Temporary Recognition Regime)[2] and the relevant national authorities.

Background

1.3 Under the on-shored European Market Infrastructure Regulation (EMIR),[3] the Bank is required to 'tier' incoming CCPs based on the degree to which the CCP poses, or is likely to pose, risks to UK financial stability. An incoming CCP that is designated Tier 2 (where that CCP is systemically important or likely to become systemically important for the financial stability of the UK) will become subject to direct UK supervision and regulation. An incoming CCP that is designated Tier 1 will be primarily supervised and regulated by its home authority.

1.4 To this end, the Bank published the tiering CP in November 2021 to consult on how it would approach tiering incoming CCPs under EMIR Article 25. The consultation period closed on 24 February 2022. This PS summarises responses to the consultation, provides feedback to those responses and sets out changes to the final policy on tiering incoming CCPs.

Implementation

1.5 The Bank will implement its approach to tiering on Thursday 1 December 2022 in order to align the implementation dates of the Bank's tiering, comparable compliance, and fees policies.

Next steps

1.6 In conjunction with this PS, the Bank is also publishing a PS[4] providing feedback to responses to the CP on the Bank's approach to comparable compliance under EMIR Article 25a.

2 Feedback to responses

2.1 The Bank received 16 responses to the tiering CP from CCPs and industry bodies. There was general support for the Bank's approach to deference and reliance on home authorities and specific

1 Consultation Paper: The Bank of England's approach to tiering incoming central counterparties under EMIR Article 25.

2 For the full list see List of third-country CCPs that are taken to be eligible for temporary deemed recognition in the UK by virtue of the Temporary Recognition Regime established by the Central Counterparties (Amendments, etc., and Transitional Provision) (EU Exit) Regulations 2018 as amended.

3 Regulation (EU) 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories as it forms part of retained EU law, and in particular as amended by the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020. Unless otherwise stated, any references to EU or EU-derived legislation refer to the version of the legislation which forms part of retained EU law.

4 Policy Statement: The Bank of England's approach to comparable compliance under EMIR Article 25a.

support for the Bank's commitment not to recommend the use of location regulations (sometimes referred to as 'Tier 3') as part of its proposed framework.

2.2 The Bank noted a common theme among respondents which had proposed amendments to the Bank's approach. Responses highlighted the degree of perceived subjectivity the Bank intended to exercise in its tiering decisions and requested greater certainty on likely tiering outcomes before CCPs go through the tiering process.

2.3 Responses have been grouped below broadly in line with the stages of the tiering approach to which they relate.

Initial triage – Initial margin and default fund contributions

2.4 The Bank proposed that incoming CCPs should first be 'triaged' to identify those CCPs that may be potentially systemic to UK financial stability. The Bank proposed using three triage criteria: (a) Initial margin (IM); (b) default fund contributions (DFC); and (c) interoperability. Responses generally focused on criteria (a) and (b), which are discussed below. The interoperability criterion is discussed separately in the next section.

2.5 In the CP, the Bank outlined that where an incoming CCP does not satisfy any of the triage criteria it would usually not progress to the next stage of the tiering assessment, and would be designated as a Tier 1 CCP. Where an incoming CCP met one or more of the criteria, it would usually progress to the next stage of the tiering assessment. The Bank highlighted that the results of the initial triage step would be indicative and that the Bank could use its judgement to opt to further assess an incoming CCP before making a tiering designation, for example if an incoming CCP was close to one or more of the triage indicators.

2.6 The first two triage criteria were:

(a) **Initial margin:** Whether the incoming CCP has held at least £10 billion of UK clearing member IM (including IM from non-UK subsidiaries of UK headquartered firms) across all services, at any point in the last five years. This IM figure is inclusive of any margin add-ons and any IM clearing members post on behalf of clients.

(b) **Default fund contribution:** Whether the incoming CCP has held at least £1 billion[5] of UK clearing member DFCs (including DFCs from non-UK subsidiaries of UK headquartered firms) across all services at any point in the last five years;

2.7 Three respondents agreed with the proposed metrics.

2.8 Three respondents commented on the discretion applied in relation to the triage thresholds and in particular the uncertainty around what 'close to' the thresholds means; triage is intended to facilitate an initial sense check of financial stability risks and provides an early indication of whether the incoming CCP will progress to the next stage of the tiering process or not. As such, the Bank is of the view that discretion at this stage of the process is appropriate and has decided to maintain flexibility by retaining the non-binding nature of the thresholds.

5 Or £5 billion for CCPs which hold IM and DFC in a single fund.

2.9 Five respondents were of the view that the IM and DFC thresholds were too low. The Bank notes that the initial triage criteria are not intended to provide a binding Tier 1 or Tier 2 designation, but instead they provide an early indication of whether an incoming CCP should move to the next step of the tiering process. As such, the Bank is of the view that the thresholds are set at an appropriate level to give an initial indication of potential systemic risk to the UK financial system and has decided not to change the thresholds.

2.10 One respondent proposed a specific consideration of Sterling (GBP) exposures as part of the triage assessment. The Bank is of the view that the size of UK clearing members' total exposures to the CCP is the most relevant factor for financial stability because it can be used as a metric for how exposed the UK financial system is to that CCP. Therefore, a proper consideration of financial stability risks would consist of looking at triage metrics incorporating all currencies (not just transactions denominated in GBP). However, the currency split of exposures for any CCP that progresses to advanced assessment will be evaluated in the systemic risk assessment step.

2.11 Eight respondents commented that the five-year lookback period was too long, and suggested a lookback period of two years instead. The Bank is of the view that five years is an appropriate lookback period as it provides an adequate period of time to assess whether an incoming CCP's IM or DFC figures are materially above or below thresholds. A shorter time period increases the risk of anomalies skewing triage metrics. As such, the Bank has decided to maintain the five-year look back period.

2.12 One respondent requested additional clarity regarding the timeframe to be used for the calculations highlighting that 'at any point in time in the last five years' lacks sufficient legal certainty and could lead to significant reductions of excess collateral held at EU CCPs which is a common practice and is beneficial to financial stability. The triage thresholds do not determine whether an incoming CCP is systemic to UK financial stability and therefore the potential reduction of excess collateral held at incoming CCPs may not always have an impact on the Bank's systemic risk assessment. In addition, setting a more specific timeframe could pose a greater incentive for a targeted return of excess collateral. The Bank is therefore of the view that 'any point in time in the last five years' is relevant and appropriate for the assessment of potential financial stability risks to the UK.

2.13 One respondent suggested that a forward-looking approach would be more appropriate, with incoming CCPs providing forecasted IM and DFC figures, rather than historic figures. The Bank is of the view that historic figures are more appropriate than forecasts, which could materially over or under-state the risks posed by a CCP to financial stability. The Bank also notes that when assessing initial triage figures, trends over the lookback period would be noted and the Bank would apply discretion appropriately. For example, if a CCP breached one of the thresholds five years ago, but had been clearly below the thresholds for the following four years, the CCP might not be taken beyond initial triage and could be designated Tier 1. The Bank also notes that forecasts may not provide a reliable indication of future exposures given that they may not always be able to factor in unforeseen circumstances that have a significant impact on markets (eg Covid-19 (Covid), political macro events).

2.14 One respondent was of the view that market turbulence, like the March 2020 Covid episode, should be excluded from the scope of triage – ie IM and DFC amounts resulting from such periods of turbulence should be excluded. The Bank considers such extraordinary incidents as relevant for its assessment of financial stability risk and therefore will maintain its approach unchanged.

2.15 Eight respondents suggested the Bank use average rather than peak IM and DFC figures – ie the Bank should take an average of IM/DFC from UK clearing members at the incoming CCP over the lookback period, rather than the individual peak IM/DFC amount during the lookback period. Peak IM captures the maximum UK clearing exposure – eg during a period of stress – which is more informative than the average as it indicates the maximum potential losses during a period where losses are more likely. Further, average figures benefit pro-cyclical margining methodologies (which lead to more significant troughs in normal and low volatility market conditions). As such, the Bank maintains that peak IM and DFC figures are a more appropriate metric for the initial triage.

2.16 Six respondents suggested the Bank use 'required' IM rather than 'held' IM. Required IM is the minimum collateral called by a CCP in order for a clearing member to meet the CCP's minimum IM requirement. Different CCPs set different minimum required amounts based on the margin methodology used and regulatory requirements within their jurisdiction. Clearing members will regularly post excess collateral, which may be to meet intraday margin calls, meaning the IM 'held' by the CCP is often above the 'required' amount. Some respondents suggested that 'required' IM would be a more accurate representation of the potential systemic risk to the UK financial system, as it reflects the actual business of UK clearing members, rather than the total IM posted by UK clearing members. Data on required IM is more complex to collect and validate and therefore it would place an unnecessary burden to incoming CCPs and would make the triage process unnecessarily complex and time-consuming. In line with the response detailed in paragraph 2.8, the initial triage stage is intended to be an initial sense-check of the potential systemic risk of an incoming CCP. The Bank, therefore, maintains that the initial triage will consider 'held' IM.

2.17 Relatedly, one respondent asked if the IM amount was pre or post-haircut. In line with paragraph 2.16the Bank will consider 'held' IM (ie IM pre-haircut).

2.18 Five respondents proposed excluding non-UK subsidiaries of UK headquartered firms from the definition of a UK clearing member. One respondent noted that CCPs may not always be in a position to provide information for the initial triage stage due to lack of information and complexity, especially in the case of complex corporate structures and groups. The Bank is of the view that there are clear financial stability reasons to include non-UK subsidiaries of UK entities. Were these subsidiaries to encounter financial difficulties the liquidity and/or solvency of the UK parent could be adversely impacted, which in turn could impact UK financial stability. The Bank is also of the view that incoming CCPs can identify non-UK subsidiaries of UK headquartered firms but if there are issues in collecting the relevant data an incoming CCP can contact the Bank to find a solution.

2.19 One respondent emphasised that, from an incoming CCP's standpoint, it would be desirable for both the UK and the EU approaches to tiering to be similar, including the numeric thresholds. The Bank has developed its approach in the context of potential risks to UK financial stability and in support of the principles of deference and supervisory co-operation, and so we do not intend to change our approach to mirror the approach taken by other authorities.

Initial triage – Interoperability

2.20 The third triage criterion the Bank proposed was:

(c) **Interoperability:**[6] whether the incoming CCP has an interoperability arrangement in place with a UK CCP.

2.21 One respondent suggested that the Bank's proposed approach to interoperability did not sufficiently reflect the systemic risk exposures created by interoperable arrangements between an incoming CCP and a UK CCP. The respondent proposed that all incoming CCPs with an interoperable arrangement with a UK CCP should automatically be designated Tier 2, to be proportionate to the risk they pose to the UK financial system. One respondent proposed adding a minimum IM threshold to the interoperability triage criterion, with the threshold relating to the IM provided directly between CCPs across the interoperable link(s) with UK CCPs. The respondent suggested that this minimum threshold would ensure only incoming CCPs with material activity across an interoperable link would move to the next stage of the tiering process.

2.22 The Bank agrees with the feedback that the consultation proposals did not fully reflect the unique interaction that can arise from an incoming CCP having an interoperable arrangement with a UK CCP. However, automatically designating an interoperable incoming CCP as Tier 2 would not be consistent with the EMIR Article 25(2a) requirement to conduct a systemic risk assessment to determine whether an incoming CCP is systemically important or likely to become systemically important for the financial stability of the UK. Additionally, the automatic designation of an interoperable CCP as Tier 2 would be inconsistent with the Bank's approach to informed reliance (as set out in its Statement of Policy on tiering), under which CCPs, irrespective of their size and interlinkages with the UK financial system may be deemed Tier 1 on the basis of robust co-operation between the Bank and home authorities. The Bank is also of the view that as interoperable links could bring unique risks to the clearing ecosystem, an IM threshold would not be the appropriate metric to capture these potential risks. The Bank is cognisant that interoperability may constitute an indirect channel of contagion between CCPs and clearing members, but there might be cases where the interoperability arrangement does not translate into higher level of systemic risk and a wide range of factors should be considered. Therefore, due to the unique and complex risks interoperable CCPs can pose, including a greater risk of contagion with the UK financial sector, the Bank will subject all incoming CCPs with interoperability arrangements in place with UK CCPs to the systemic risk assessment and, where found potentially systemic, subject them to a Level 2 informed reliance assessment to determine the extent to which the Bank is able to place reliance on the incoming CCP's home authority's regulation and supervision.[7] As a result, interoperable CCPs will not benefit from the proportionality test.[8] The Bank notes that there are circumstances where an interoperability arrangement might not pose significant risks to UK financial stability, for example if the interoperability arrangement clears only minimal volumes. Such circumstances would be identified during the systemic risk assessment and a CCP determined 'not systemic' would not be subject to an informed reliance assessment.

2.23 A respondent suggested that the interoperability criterion should only be applicable in the case of interoperability arrangements with CCPs from jurisdictions which are not subject to equally prudent requirements as those included in EMIR Title V and in Articles 52 and 54 in particular. The Bank acknowledges that even though the risk management and approval provisions account for some financial stability risks, they do not cover all inherent risks that could arise from

6 An interoperability arrangement is a link between CCPs which involves the cross-system execution of transactions.

7 As outlined in paragraphs 3.25 and 3.26 of the SoP.

8 In the November CP, the Bank proposed to apply one of two different levels of informed reliance assessment, depending on the UK interest in a CCP relative to other authorities. The level of informed reliance would be determined by the proportionality test, which assesses the proportion of i) IM and ii) DFC attributable to UK clearing members.

interoperability arrangements. Whilst the provisions of EMIR provide the Bank with some oversight of interoperable links via supervision of UK CCPs, they are not a substitute for a direct regulatory relationship.

Systemic risk assessment

2.24 In the tiering CP, the Bank proposed that it would undertake a more detailed systemic risk assessment for incoming CCPs that met one or more of the initial triage criteria. The systemic risk assessment would evaluate factors relating to the incoming CCP that may impact its systemic importance to the UK and includes assessing the criteria outlined in EMIR Article 25(2a).

2.25 Two respondents welcomed the Bank's approach to the systemic risk assessment.

2.26 Four respondents asked for the Bank to specify whether it would place greater weight on some factors over others in determining how systemic an incoming CCP is to UK financial stability. EMIR Article 25(2a) does not prescribe different weighting of factors. The Bank's approach to assessing systemic risk is, accordingly, holistic and does not place greater weight on any specific factor.

2.27 Five respondents suggested that the systemic risk assessment considers factors that do not have a clear nexus to the UK; eg non-sterling denominated products and CCPs' membership requirements. EMIR Article 25(2a) details the factors the Bank must consider in its assessment of whether an incoming CCP is systemically important or likely to become systemically important for the financial stability of the UK. These include all the factors the Bank has detailed in its description of the proposed systemic risk assessment.

2.28 One respondent suggested that the systemic risk assessment should consider other factors not listed in the tiering CP. The Bank identified those indicators it considers most important for the systemic risk assessment in the tiering CP. However, these indicators are non-exhaustive and the Bank will consider all the criteria listed in EMIR Article 25(2a).

2.29 One respondent suggested that no individual systemic risk assessment criterion should be considered determinative on its own. The Bank's assessment is holistic, taking into account all criteria as required by EMIR Article 25(2a) and focuses on the key indicators which the Bank considers most important in its assessment. The Bank may determine that an incoming CPP is potentially systemic to UK financial stability on the basis of any one or more of these criteria. In general, the Bank is more likely to designate a CCP as Tier 2 where more of these criteria have been satisfied.

2.30 Four respondents were of the view that the systemic risk assessment is overly subjective and provides the Bank with too much discretion thereby creating uncertainty for incoming CCPs. In addition, they argued that the proposed indicators listed lack specificity and clarity as to how they will be assessed. The criteria listed in the description of the systemic risk assessment are explicitly prescribed in EMIR Article 25(2a) and the Bank must take them into account at a minimum. The proposed areas and information for review outlined in Annex 1 of the CP have been formed with the aim of establishing a common approach to assessing incoming CCPs while maintaining appropriate flexibility. The criteria for the systemic risk assessment are intended to be broad enough to be relevant to CCPs which are operating different business models, subject to different rules, and located in different jurisdictions. A one size fits all approach would not therefore be appropriate.

Noting the desire for greater clarity and certainty from respondents, the Bank has updated its tiering approach as outlined below in Section 3. Under the updated tiering process, incoming CCPs will not be subject to the systemic risk assessment if they are below the proportionality thresholds and the Level 1 informed reliance assessment criteria[9] have been satisfied (unless they are interoperable CCPs). Thus incoming CCPs for which UK clearing members represent only a small proportion of total activity will no longer be subject to a systemic risk assessment.

Informed reliance assessment

2.31 In the CP, the Bank set out that its approach to incoming CCPs is built upon the principle of deference to other regulators' regimes – where justified – and emphasised the importance of effective supervisory co-operation.

2.32 To that end, the Bank proposed to rely on regulation and supervision provided by the home authority wherever it was considered appropriate, proportionate and safe to do so. Where an incoming CCP was found to be potentially systemic following a systemic risk assessment, the Bank proposed to conduct an informed reliance assessment to determine the extent to which the Bank was able to rely on home regulation and supervision of the incoming CCP.

2.33 Nine respondents were generally supportive of the Bank's approach to proportionality, deference and co-operation with home authorities.

2.34 One respondent suggested that the proportionality test thresholds should be higher in order to more adequately represent the position that globally significant CCPs should not have 'too many hands on the wheel' when it comes to regulation and supervision. The Bank considers that 20% of the incoming CCP's total IM and DFC from all clearing members is an appropriate threshold to determine the extent to which it should rely on home authority supervision. For incoming CCPs that are considered potentially systemic to the UK and where the UK represents a significant proportion of the CCP's business, the Bank considers it appropriate to require more information and closer co-operation in order to rely on the home authority for supervision and regulation of the CCP to achieve the Bank's financial stability objective.

2.35 Three respondents suggested that the informed reliance assessment criteria proposed by the Bank were too subjective and asked for more objective criteria to increase clarity on what would result in informed reliance assessment expectations being met. One respondent suggested that the informed reliance assessment criteria should be more subjective, as objective criteria could result in an incoming CCP being designated Tier 2 as a result of just one criterion not being met, which may not be proportionate to the risks posed by the incoming CCP. The Bank notes that informed reliance assessments are intended to be qualitative and bespoke in nature, meaning there is a limit to the amount of detail and objective criteria that can be provided *ex ante*. As such, the Bank does not intend to provide more objective criteria in its SoP. The Bank is of the view that an appropriate amount of subjectivity is built into the Level 1 informed reliance assessment as the list of key areas the Bank will review is non-exhaustive and the Bank may take other relevant considerations into account for the purposes of the assessment.

2.36 One respondent suggested it would be helpful to specify which proposed informed reliance assessment criteria are of particular importance to the Bank. As detailed in paragraph 2.35 an

9 As outlined in Annex 1 of the SoP.

informed reliance assessment is qualitative and individual in nature, meaning some aspects of co-operation will be of more relevance to some incoming CCPs than to others.

2.37 One respondent noted it would be helpful to have greater certainty about the circumstances under which the Bank will rely on home authority supervision as opposed to taking direct supervisory action. The Bank's approach is to defer to home authorities to the extent that the informed reliance assessment criteria have been met in order to avoid duplication of supervisory activity. Under the updated tiering process outlined below, in the case of incoming CCPs that are below the proportionality thresholds, the Bank will always defer to home authorities if they satisfy the Level 1 informed reliance assessment criteria. In the case of incoming CCPs above the proportionality thresholds and found to be potentially systemic, the Bank will defer to home authorities if they meet the Level 2 informed reliance assessment criteria and will not expect to engage in independent supervisory activities and conduct independent validations under EMIR, independent general investigations or independent on-site visits.

2.38 One respondent suggested that greater emphasis should be placed on informed reliance, particularly with respect to the Bank's existing relationships with other supervisory authorities and the Bank's use of mutual deference to the regulatory regimes of other jurisdictions on an *ex-ante* basis. The Bank has updated its tiering approach as outlined below in Section 3 with the aim of providing great *ex ante* certainty mainly by offering the option of a pre-tiering Level 1 informed reliance assessment.[10]

2.39 One respondent suggested that the Bank clarify that there are multiple means to meet the necessary level of supervisory co-operation. The Bank will determine whether it can rely on home authority supervision based on the outcome of the informed reliance assessments. These assessments will be adapted on a case-by-case basis and there are indeed multiple means to meet the necessary level of co-operation.

2.40 Two respondents commented that the Level 2 informed reliance assessment expectations are too demanding. They focused on the operational burden of supervisory visits, the influence the Bank would have over supervisory priorities and the Bank's participation in Crisis Management Groups. The Bank's proposal to incorporate informed reliance assessments as a part of the tiering process is based on the principle of deference and aims to avoid supervisory duplication. The Bank will agree the detail of co-operation arrangements with home authorities, taking into consideration the specifics of their respective supervisory and regulatory frameworks. This may include the option for the Bank to participate in supervisory reviews by the home authority or feed in the Bank's views to discussions on supervisory priorities. The purpose of informed reliance is to provide the Bank comfort in placing reliance on the home authority, not to duplicate work or increase the burden on the CCP and the home authority.

2.41 One respondent asked how an informed reliance assessment will actually be undertaken from a practical point of view. The Bank will review existing arrangements with home authorities and assess the areas included in Annex 2 of the SoP. In order to aid its review, the Bank may also request information and/or clarifications from the relevant home authorities.

10 As outlined in paragraph 3.14 of the SoP.

Reviewing tiering decisions

2.42 One respondent suggested reviewing tiering decisions would be too resource intensive for incoming CCPs. The Bank is obligated to review tiering decisions in accordance with EMIR Article 25(5). The Bank will do so in a proportionate manner with the aim of minimising any burden for incoming CCPs. The whole tiering approach intends to keep the tiering process light touch for the majority of incoming CCPs.

2.43 One respondent suggested a two-year adaptation period for reviewed tiering decisions. The Bank notes that the adaptation period will be determined on a case-by-case basis as appropriate.

Other

2.44 One respondent disagreed with the application of a statutory recognition and supervision/monitoring framework to all incoming CCPs beyond the PFMIs. The Bank is required to observe criteria and processes set out in applicable legislation, including EMIR and FSMA. The Bank takes into account the need to minimise burdens on incoming CCPs, and for this reason places significant weight on the principle of deference to the home regulator where feasible.

2.45 One respondent asked whether the definition of 'incoming CCPs' includes trading venues. The Bank's approach is relevant to incoming CCPs that are seeking recognition by the Bank to provide clearing services in the UK. The description of 'incoming CCPs' in the CP simply reflects the legal text of EMIR Article 25, in particular (1) which states 'A CCP established in a third country may only provide clearing services to clearing members or trading venues established in the United Kingdom where that CCP is recognised by the Bank of England'. The Bank's approach does not seek to change how trading venues, clearing members, or other market participants execute and clear transactions, or otherwise interact with recognised incoming CCPs, and those activities remain subject to existing rules and regulations.

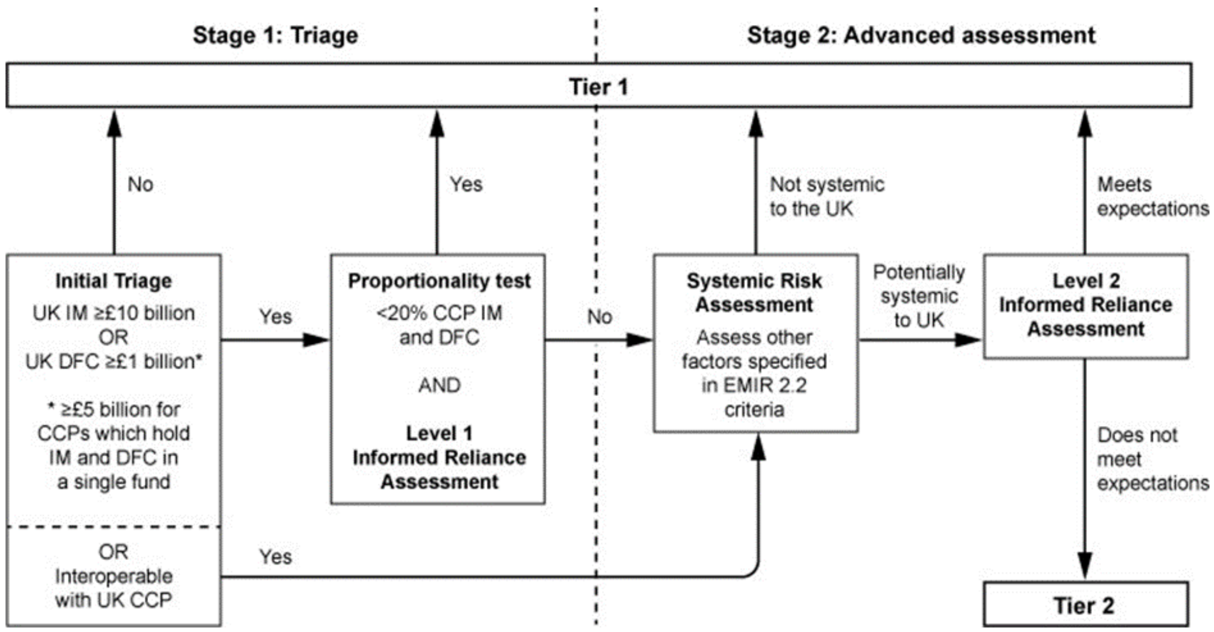
3 Changes to the draft policy

3.1 Respondents to the CP highlighted the level of discretion and subjectivity in the proposed tiering approach, and suggested that this could lead to uncertainty for applying CCPs on their likely tiering designation. To provide more *ex ante* certainty on the tiering outcome for applying CCPs the following changes have been introduced in the policy.

Amendments to the SoP text to create greater ex ante certainty

3.2 As shown in **Figure 1**, we have moved the proportionality test and Level 1 informed reliance assessment forward in the tiering process, before the systemic risk assessment. There is no change to the individual stages of the tiering process, simply a reordering. Consequently, we have also renamed the two stages of the tiering process to: Stage 1: Triage, Stage 2: Advanced assessment.

Figure 1: Summary of the Bank's updated approach to tiering of incoming CCPs



3.3 The amendment means incoming CCPs will only be subject to the systemic risk assessment where the UK represents a significant proportion of the CCP's business (or where the CCP has an interoperable link with a UK CCP). To reduce the level of discretion in relation to the Level 1 informed reliance assessment, for CCPs for which the UK represents a smaller proportion of activity, the Bank has amended the SoP text as follows:

- '3.2 No individual assessment criteria in this SoP will, in isolation, be decisive in determining a Tier 2 designation ~~the Bank's tiering determinations~~. The Bank's determinations will be made on the basis of a holistic assessment of all applicable criteria.'

- '3.18 An incoming CCP that is below the proportionality test thresholds and where the Bank's expectations for the Level 1 informed reliance assessment have been met, will ~~usually~~ be determined as Tier 1.'[11]

3.4 In addition, we have clarified in 3.14 of the SoP text that home authorities with which relevant co-operation arrangements exist between the Bank and the authority (eg a CCP-specific Memorandum of Understanding has been agreed since the UK's withdrawal from the EU (ie 31 January 2020) and the EMIR framework was adopted (ie via Regulation (EU) 2019/2099) on October 2019) may request a Level 1 informed reliance assessment prior to the tiering process. Where the home authority is found to meet the Level 1 informed reliance criteria, the result of the early assessment could be used by relevant incoming CCPs to satisfy the requirements of Level 1 informed reliance within the tiering process.

11 Paragraph numbers reference the draft SoP in the CP.

Interoperability

3.5 Some respondents[12] questioned the appropriateness of the CP proposals in respect of interoperable CCPs, and in particular queried whether they properly reflected the risks posed. One respondent suggested that interoperable CCPs should be automatically designated as Tier 2.

3.6 Given the potentially significant and complex risks that the failure of an interoperable CCP could pose to a UK CCP, and their unique form of integration with UK CCPs, the Bank considers that a Level 2 informed reliance assessment is appropriate and proportionate as the base expectation for interoperable CCPs when found potentially systemic based on the systemic risk assessment. The Level 2 informed reliance assessment will enable the Bank to put in place comprehensive co-operation arrangements with the home authorities, appropriately tailored to reflect the specific risks presented by the interoperability arrangement.

3.7 Under the updated tiering process, interoperable incoming CCPs will therefore pass directly from initial triage to the systemic risk assessment (without being subject to a proportionality test).

12 See paragraphs 2.21-2.22.

Appendix 1

Statement of Policy: The Bank of England's approach to tiering incoming central counterparties under EMIR Article 25