



BANK OF ENGLAND

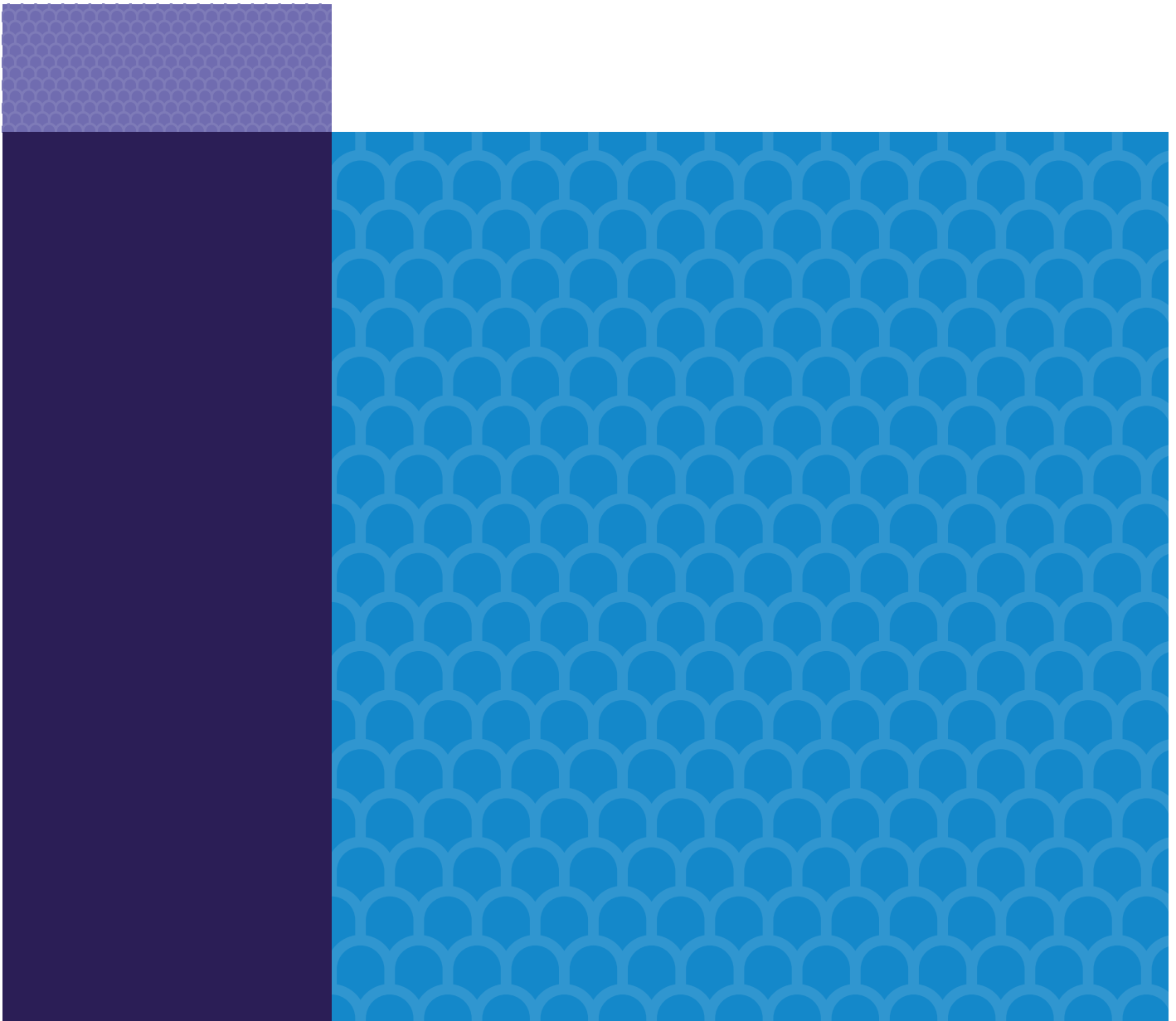
Financial Market
Infrastructure



Policy Statement

Operational Resilience: Central Counterparties

March 2021





BANK OF ENGLAND

Policy Statement

Operational Resilience: Central Counterparties

March 2021

1 Overview

1.1 This Bank of England (the Bank) Policy Statement (PS) provides feedback to responses to Consultation Paper Operational Resilience: Central Counterparties. It also contains the Bank's final Supervisory Statement (SS) in Appendix 1.

1.2 The SS sets out the expectations for Operational Resilience. These expectations are not binding, but they will provide Central Counterparties (CCPs) with information on how the Bank intends to assess their operational resilience.

Background

1.3 A key priority for the Bank, Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) ('the authorities') is to put in place a stronger regulatory framework to promote the operational resilience of firms and financial market infrastructures firms (FMIs). To this end, we published a joint Discussion Paper on Operational Resilience in 2018 setting out an approach to operational resilience. Following this, the authorities published a suite of consultation papers¹ (CPs) in December 2019 to consult on the policy approach.

1.4 The authorities sought views on a number of proposals which are designed to improve the operational resilience of firms and FMIs, and protect the wider financial sector and UK economy from the impact of operational disruptions. The proposals related to the identification of important business services, setting impact tolerances, and for ensuring firms' and FMIs' services can remain within impact tolerances in extreme but plausible scenarios.

Summary of Consultation Responses

1.5 The Bank has had regard to the representation made to the proposals set out in the Consultation Paper Operational Resilience: Central Counterparties. There was an excellent level of engagement with the consultations. Overall, respondents were supportive of the policy and the approach to operational resilience, although there were some requests for additional clarity. In developing the Bank's final approach, we have drawn upon these responses. The feedback received is summarised below:

- i. **Disruption to multiple important business services** – a number of respondents stated that a disruption to an individual important business service may be unlikely to impact the authorities' objectives. Rather, disruptions that could impact multiple important business services simultaneously are more likely to pose a meaningful threat. We acknowledge these views and have amended the policy to include an expectation for CCPs to consider that multiple important business services could be simultaneously impacted in the event of a disruption when setting their impact tolerances.
- ii. **Third Party Outsourcing** – Respondents raised concerns over third party suppliers which may be reluctant to share information necessary for mapping and testing. The final policy does not prescribe that third party suppliers must disclose all (and sometimes sensitive) information to CCPs, but CCPs will need to cooperate with their third party suppliers to assure themselves that

¹ PRA CP29/19: Operational resilience: impact tolerances for important business services, FCA CP19/32: Building operational resilience: impact tolerances for important business services and feedback to DP18/04, Bank CP Operational Resilience: Central counterparties, Bank CP Operational Resilience: Central securities depositories and Bank CP Operational Resilience: Recognised Payment Systems and Specified Service providers.

they can remain within impact tolerances. The Bank will retain its approach to third party outsourcing and take a proportionate approach. For testing, evidence that a CCPs has satisfied itself that a third party has undertaken testing may be sufficient. While we recognise that some CCPs may struggle to negotiate mapping and testing arrangements with more significant third parties, the Bank considers that this clarification of CSDs expectations from suppliers will help suppliers understand the constraints they are operating under when agreeing contract terms, and thus improve the negotiations for CSDs.

- iii. **Implementation timeline** – Respondents asked for greater clarity and consistency on the implementation timeline and suggest setting dates for implementing the new policy. Some respondents also inquired as to whether there would be flexibility within the timelines for implementation. The Bank considers that the proposed timeframe of 12 months from the publication of the final policy is appropriate. This will provide enough time for CCPs to be able to identify important business services, set appropriate impact tolerances and regularly test their ability to meet tolerances with due regard to the mapping of dependencies. CCPs will have up to three years from 31 March 2022 when the policy takes effect to take all reasonable action to ensure they remain within impact tolerance for each important business service in the event of an extreme but plausible disruption. We believe this gives CCPs the necessary flexibility to take action to enhance their resilience.
- iv. **Impact Tolerance** - Respondents commented that focusing on a single time-based metric for impact tolerance and requiring CCPs to stay within the time frame may not be possible and it may have an undesirable effect especially in circumstances of uncontrollable events such as a severe cyber-attack. The proposed policy is that CCPs consider a range of possible measures by which to judge the appropriate impact tolerance for a given important business service. Accordingly, the Bank does not consider it necessary to make changes to the policy in this regard. The actions of CCPs in the event that an uncontrollable disruption occurs will depend on the circumstances.
- v. **Defining extreme but plausible scenarios** - Respondents asked for greater clarity on the definition of 'extreme but plausible' scenarios, including a set of defined scenarios to ensure harmonisation of understanding to support the development of effective testing and scenario planning programmes across the sector. The Bank expects CCPs to undertake an assessment of the operational risks that are relevant to their important business services and incorporate those risks in the design of disruption scenarios for the purpose of testing. The nature and severity of scenarios for CCPs to use may vary according to the risks and vulnerabilities identified. As such, the Bank does not consider that it would be helpful to provide a set of defined scenarios. The policy further provides a non-exhaustive list of the risks that CCPs should consider in designing their scenarios.
- vi. **Industry collaboration** - Respondents commented that the Financial Market Infrastructure sector should be encouraged to collaborate with other financial institutions and authorities in addressing issues such as industry preparedness for market-wide scenarios, approaches to setting and managing important business services, and the overall resilience of the UK financial sector. The Bank strongly agrees that this collaboration would be beneficial in establishing good practice for enhancing operational resilience and has emphasised this since the Discussion Paper.

Changes to draft policy

1.6 Financial stability is more likely to be impacted by a mass outage affecting multiple important business services, rather than individual important business service outages. The current drafting of the expectations requiring CCPs to set an impact tolerance for each important business service may be interpreted narrowly such that CCPs primarily focus on the disruption of single important business service and fail to consider their impact tolerance if multiple important business service are disrupted simultaneously. In the final supervisory statement, we clarify that we expect CCPs to consider the implications for their impact tolerance should more than one important business service be disrupted at the same time.

1.7 The policy takes effect from 31 March 2022, where CCPs are expected to identify important business services; set impact tolerances; and regularly test their ability to meet tolerances with due regard to the mapping of dependencies. Within a reasonable time after 31 March 2022, and in any event no later than 31 March 2025, CCPs are expected to take all reasonable actions to ensure they remain within their impact tolerances in the event of an extreme but plausible disruption to operations. We believe this gives CCPs the necessary flexibility to take action to enhance their resilience and the proposed implementation period is consistent across the Bank, the PRA and FCA.

1.8 The Bank has also taken the opportunity to make some typographical changes to the SS to improve readability.

1.9 The Bank considers that the above changes are not significant, and benefit CCPs by providing further clarity on the original proposals.

1.10 The final policy set out in this PS has been designed in the context of the UK having left the European Union and the transition period having come to an end. Unless otherwise stated, any references to EU or EU derived legislation refer to the version of that legislation which forms part of retained EU law.

1.11 Prior to consultation, the Bank considered the way in which the Supervisory Statement advances its statutory obligations and objectives. The Bank's findings on these issues are unchanged following consultation and consideration of the feedback received.

1.12 Appendix 1 contains a link to the final Supervisory Statement.

Appendix 1

1 Supervisory Statement 'Operational Resilience: Central Counterparties'