

**BANK OF ENGLAND**

Application form for settlement finality designation for non-UK law systems operated by private operators

Full name of applicant system (or systems, separated by semi-colons)¹

Before completing the application form, you should review the settlement finality designation information on the Bank's website at:

<https://www.bankofengland.co.uk/financial-stability/financial-market-infrastructure-supervision>.

The [guidance note](#) available on the Bank's website will help you answer our questions and includes relevant links to documents and help pages.

Purpose of this form

The Bank of England may designate a non-UK law system if it is satisfied that it meets the conditions listed in the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (as amended) ("the SFRs")². The information requested in this pack is to help us to assess whether the applicant system satisfies the conditions.

You must answer every question on this form, and attach the documents that apply. If a question does not apply then answer 'Not applicable'.

In line with the requirements of the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018, please note that any personal information provided to us will be used to carry out our statutory functions under the Financial Markets and Insolvency (Settlement Finality) Regulations and other relevant legislation and may be disclosed to third parties for that purpose. To find out more about how we deal with your personal data, your rights or to get in touch please visit bankofengland.co.uk/legal/privacy.

Terms in this application pack

- SFRs refers to the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (as amended);
- Terms have the same meaning that is given to them by the SFRs;
- EU SFD refers to Directive 98/26/EC on settlement finality in payment and securities settlement systems;
- 'you' refers to the persons signing the form on behalf of the applicant system;
- 'applicant system' or 'system' refers to the system applying for designation; and
- 'Bank of England', 'the Bank', 'we', 'us' or 'our' refers to the Bank of England;

¹ For an EEA system, please provide the full name of the system, as used in the [ESMA list of Designated Payment and Securities Settlement Systems](#)

² The UK parliament approved two statutory instruments in 2019 (the first one is available [here](#) and the second [here](#)) that make amendments to [The Financial Markets and Insolvency \(Settlement Finality\) Regulations 1999](#).

Application requirements

We are taking a proportionate and risk-based approach to assessing applications for designation from non-UK law systems. The process set out in the table below seeks to achieve such proportionality while ensuring that the Bank meets its statutory responsibilities as designating authority. Please be aware that the Bank will consider each application on a case-by-case basis, and may consider other criteria or requirements as relevant to reaching its final decision on any application. Please refer to the [guidance note](#) for more details on how the Bank will assess and determine applications.

Section	Are you designated under the EU SFD?	
	Yes	No
1. <i>Core Details</i>	Please answer all questions	
2. <i>Requirement 1 - Establishment, participation and governing law</i>	Please answer questions 2.1 and 2.2 only	Please answer all questions
3. <i>Requirement 2 - Arrangements and resources</i>	Please answer all questions*	
4. <i>Requirement 3 - Financial resources</i>		
5. <i>Requirement 4 – Co-operation with other authorities</i>	Please answer all questions	
6. <i>Requirement 5 – Specific provisions</i>	Please skip this section	Please answer all questions
7. <i>Requirement 6 – Default arrangements</i>	Please answer all questions*	
8. <i>Participants</i>		
9. <i>Declaration</i>		

* Please skip the *Arrangements and resources* and *Financial resources* sections if you are a third country central counterparty or a third country CSD that has been recognised to offer services in the UK

Core details

1

Why we ask the questions in this section

We need to know this information to contact you during our assessment, to enable efficient processing of your application and to update the public record of designated systems.

Contact for this application

1.1 Contact details of the person we will get in touch with about this application.

This must be someone who has the authority to submit an application to apply for designation on behalf of the above named system.

Title	
First name(s)	
Surname	
Job title	
Business address	
Postcode	
Country	
Phone number	
Mobile number (optional)	
Email address	

1.2 Details of the applicant system

System(s)*	
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Operator*	
Country*	
Name of the supervising authority (or authorities)	
Contact details of the supervising authority (or authorities)	

* Details that may be published on the Bank's website

Requirement 1 - Establishment, participation and governing law

2

Why we ask the questions in this section

We need to know whether the applicant system qualifies for settlement finality protections in the UK. According to Para. 1 of the SFRs schedule, for UK settlement finality protections to be granted under the SFRs, a system must:

- (a) Have at least three institutions participating in the system, unless otherwise determined by the Bank in any case where there are two institutions participating in the system and the Bank considers that designation is required on the grounds of systemic risk; and
- (b) Be a system through which transfer orders are effected.

2.1 What is the governing law of the applicant system?

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2.2 Is the applicant system EU SFD designated?

- No ▶ Continue to Question 2.3
- Yes ▶ Skip to Section 3, Question 3.1

2.3 Are there at least three institutions participating in the applicant system?

- Yes ▶ Continue to Question 2.4
- No ▶ Provide the information below

Please indicate if the applicant system has two participating institutions and provide any relevant information/evidence that may assist the Bank in considering whether designation is required on the grounds of systemic risk.	
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2.4 Are transfer orders carried out through the applicant system?

- No ▶ The system is not eligible for UK settlement finality protections.
- Yes ▶ Provide the information below and continue to Question 2.5

Please provide supporting evidence, for example the relevant part(s) of the applicant system's rules where transfer orders are defined.	
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2.5 Does the applicant system effect any orders relating to financial instruments other than securities through the system?

- No ▶ Continue to Question 3.1
- Yes ▶ Provide the information below

Please list the types of orders effected through the applicant system that relate to financial instruments other than securities, and any relevant information/evidence that may assist the Bank in considering whether designation is required on the grounds of financial stability.

Requirement 2 – Arrangements and resources

Why we ask the questions in this section

3

For UK settlement finality protections to be granted under the SFRs, a system must have adequate arrangements for the effective monitoring and enforcement of compliance with its rules.

As highlighted in the [guidance note](#), the Bank will rely on the jurisdictional implementation of the Principles for Financial Market Infrastructures (PFMIs) to provide assistance in determining whether some of the statutory criteria in the SFRs are met (please refer to the guidance note for more information on the PFMIs).

Where a system's jurisdiction has been found to be consistent, for the relevant FMI type, with Principles 1, 2 and 3 of the Principles for Market Infrastructure (PFMIs) through a Level 2 assessment, this evidence can be used to show that requirement 2 has been met.

Principle 1: Legal basis – An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.

Principle 2: Governance – An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.

Principle 3: Framework for the comprehensive management of risks – An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational and other risks.

3.1 Is the applicant system operated by a third country central counterparty or a third country CSD³ that has been recognised to offer services in the UK?

No ▶ Continue to Question 3.2

Yes ▶ Skip to Section 5, Question 5.1

3.2 The applicant system must have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules or, as respects monitoring, arrangements providing for that function to be performed on its behalf (and without affecting its responsibility) by another body or person who is able and willing to perform it.

If available, please provide a Level 2 assessment report covering PFMI Principles 1-3.	
If you cannot provide the information above, or are not subject to domestic legislation that implement the PFMI, please provide other relevant supporting evidence, for example the relevant part(s) of the applicant system's rules that describe such arrangements or a self-assessment against PFMI Principles, 2 and 3.	

³ Only third country CCPs/CSDs that have been recognised by the Bank under the provisions of the onshored UK EMIR & UK CSDR are able to skip Question 3.2. Any CCPs and CSDs respectively, that offer clearing and CSD services in the UK under the temporary recognition regime for third country CCPs and the transitional regime for third country CSDs must complete Question 3.2. Please refer to [section 285 of the Financial Services and Markets Act 2000](#) (amended) for a definition of a 'recognised' 'third country central counterparty' and a 'third country CSD'.

Requirement 3 - Financial resources

4

Why we ask the questions in this section

For UK settlement finality protections to be granted under the SFRs, a system operator must have financial resources sufficient for the proper performance of its functions.

Where a system's jurisdiction has been found to be consistent, for the relevant FMI type, with Principles 15, this evidence can be used to show that this requirement has been met.

Principle 15: General business risk – An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.

4.1 The system operator must be able to demonstrate that it has sufficient financial resources for the proper performance of its functions as a system operator.

<p>If available, please provide a Level 2 assessment report covering PFMI Principle 15.</p>	
<p>If you cannot provide the information above, or are not subject to domestic legislation that implements the PFMI, please provide other relevant supporting evidence, for example:</p> <ul style="list-style-type: none"> • A self-assessment against PFMI Principle 15, or • Evidence that the applicant system has sufficient liquid net assets funded by equity so that it can continue operations and services as a going concern if it incurs general business losses; or • Part(s) of the applicant system's rules that show this requirement can be met by other means. For example, rules whereby members' fees are adjusted to cover the cost of running the system, indemnities, or a liability of members to cover such cost in addition to any separate provision for the recovery of fees. 	

Requirement 4 – Co-operation with other authorities

5

Why we ask the questions in this section

For UK settlement finality protections to be granted under the SFRs, a system operator must be able and willing to co-operate with relevant UK supervisory and administrative authorities.

5.1 Can the applicant system confirm that the system is able and willing to share information with the relevant authorities?

- No ▶ The system is not eligible for UK settlement finality protection.
- Yes ▶ Provide the information below.

Please provide supporting evidence, for example, rule(s) which state that the system and the system operator are entitled to/capable of disclosing and co-operating with the UK regulatory bodies referred to in the SFRs.

Requirement 5 – Specific provisions

6

Why we ask the questions in this section

For UK settlement finality protections to be granted under the SFRs, the rules of the non-UK law system must:

- (a) specify the point at which a transfer order takes effect as having been entered into the system,
- (b) specify the point after which a transfer order may not be revoked by a participant or any other party, and
- (c) prohibit the revocation by a participant or any other party of a transfer order from the point specified in accordance with paragraph (b).

6.1 Is the applicant system EU SFD designated?

- No ▶ Continue to Question 6.2
- Yes ▶ Skip to Section 7, Question 7.1

6.2 The applicant system must be able to demonstrate that the specific provisions are contained in the applicant system's rules.

Please provide a copy of the system rules with your application as well as the guidance relating to the system; and specify the part(s) relevant to SFR 5(1), in particular the reference where the "points of entry" and "points of irrevocability" of transfer orders are identified.

Requirement 6 – Default arrangements

7

Why we ask the questions in this section

For UK settlement finality protections to be granted under the SFRs, the system must have default arrangements, which are appropriate for that system in all the circumstances.

Where a system's jurisdiction has been found to be consistent, for the relevant FMI type, with Principle 13 of the PFMI, this can be used to show the requirement has been met.

Principle 13: Participant-default rules and procedures – An FMI should have effective and clearly defined rules and procedures to manage a participant default. These rules and procedures should be designed to ensure that the FMI can take timely action to contain losses and liquidity pressures and continue to meet its obligations.

7.1 The applicant system must be able to demonstrate that appropriate default arrangements are in place.

Provide the information below

If available, please provide a Level 2 report covering PFMI Principle 13.	
If you cannot provide the information above, or are not subject to any domestic legislation that implements the PFMI, please provide details evidencing this statement. For example, details of default arrangements (which deal with the position if a participant becomes, or appears likely to become, incapable of meeting their obligations in respect of transfer orders), including any arrangements for netting or closing of positions or application of transfer of collateral, or a self-assessment against PFMI Principle 13.	

8

Participants

Why we ask the questions in this section

The Bank needs to know if the applicant system is requesting indirect participants to be classified as participants and undertakings to be classified as institutions.

A. Does the applicant system have undertakings participating in the system who are responsible for discharging financial obligations arising from transfer orders effected through the system that it wishes to be classified as institutions?

- No
- Yes, please provide further information

B. Does the applicant system have indirect participants that it wishes to be classified as participants in the system?

- No
- Yes, please provide further information

Declaration

9

By submitting this application:

- I confirm that I have appropriate authority to submit an application to enter into the UK settlement finality designation regime on behalf of the below named system (or systems):

System(s)*	
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- I sign this application on behalf of the applicant system(s).
- I confirm that the information contained with this application represents a true and fair view, to the best of my knowledge and belief, and that I have taken all reasonable steps to ensure that this is the case.
- I confirm that the application system(s) meet all the relevant regulatory requirements in the jurisdiction where it is established.
- I acknowledge that I will notify the Bank of England immediately if there is a significant change to the information given in the form. If I fail to do so, this may result in a delay in the application process.
- I confirm that I give agreement for any information provided in relation to this application to be shared with other UK and non-UK regulators at the Bank's discretion.

Date	
Name of signatory	
Position of signatory	
Signature	

Annex 1 - Supporting documents required

Please tick below to confirm that you have sent the following documents with this application.

List of supporting documents

Question	Supporting documents	
2.2	List of all direct and indirect UK participants	<input type="checkbox"/> Attached
All questions	Rules of the systems and any guidance relating to that system	<input type="checkbox"/> Attached