



25 October 2018

Dear Chief Executive Officer,

1. My 20 December 2017 letter set out how the Bank of England (the Bank) intends to recognise non-UK CCPs to provide services in the UK following the UK's withdrawal from the EU. My 28 March 2018 letter provided an update following the meeting of the EU Council that month.<sup>1</sup>
2. This letter provides a further update following the laying of the UK Statutory Instrument *The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018* ('the SI') before the UK Parliament and the corresponding statement made by the Bank on 24 July 2018.<sup>2</sup> I would also like to draw your attention to the publication of a Consultation Paper (CP) on a proposed fees regime for recognition applications made to the Bank.<sup>3</sup>
3. This letter highlights some actions you will need to take once the SI comes into force later this year, so that you can plan accordingly. The exact timelines for these actions are subject to the parliamentary process and the Bank will notify you of these in due course. In the interim we remain open to continue discussions on an informal basis as we have been over the course of this year.

The UK legislative framework establishing the third country CCP approval mechanisms

4. We expect the SI to come into force in Q4 2018, subject to parliamentary approval. Following this, non-UK CCPs will be able to submit formal applications for recognition to the Bank. The SI will provide the Bank with powers to receive applications (both in advance of, and after, the UK's withdrawal from the EU) as well as to assess and make decisions on the recognition of non-UK CCPs, with any decisions then taking effect when the UK leaves the EU.<sup>4</sup>

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<sup>1</sup> The December 2017 letter is available at: <https://www.bankofengland.co.uk/-/media/boe/files/letter/2017/letter-to-ccps.pdf>. The March 2018 letter is available at: <https://www.bankofengland.co.uk/-/media/boe/files/letter/2018/ccps-preparation-for-the-uk-withdrawal-from-the-eu-update-march-2018.pdf>.

<sup>2</sup> The SI laid before Parliament is available at: <http://www.legislation.gov.uk/id/ukdsi/2018/9780111171882>. An accompanying announcement from the Bank is available at: <https://www.bankofengland.co.uk/news/2018/july/temporary-permissions-and-recognition-regimes>

<sup>3</sup> The CP is available at: <https://www.bankofengland.co.uk/paper/2018/fees-for-non-uk-ccp-applications-for-recognition-2018-19>.

<sup>4</sup> Recognition of a CCP also requires that a) Treasury has made regulations determining equivalence of the legal and supervisory arrangements of a the home regime; b) the CCP is subject to effective supervision and enforcement in their home jurisdiction; c) cooperation arrangements have been established with the relevant competent authorities; and d) the CCP is not established in a country that is a high-risk third country within the meaning of regulation 33 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(1).

5. The manner in which we expect non-UK CCPs to make applications before the UK's withdrawal from the EU, and the information which should be included as part of such an application, are set out in Annex I to this letter. As I set out in my 20 December 2017 letter, this information is materially the same as is currently required by third country CCPs applying to the EU for recognition, with only limited changes made to replace references to the EU with references to the UK.
6. The SI also makes provision for the Bank to charge fees in connection with the discharge of its functions. Today we have published a CP on proposed fees for non-UK CCP applications for recognition. The CP proposes an application fee of £35,000 for applicant non-UK CCPs. Responses should be sent to [FMIFeedback@bankofengland.co.uk](mailto:FMIFeedback@bankofengland.co.uk) by 02 January 2019.
7. Where a non-UK CCP has already provided information to us for the purpose of pre-application discussions, a fee will only be incurred if the non-UK CCP chooses to make a formal application, or gives explicit consent for information previously provided to be taken by the Bank to be a formal application. Fees will be payable once a recognition decision is made in relation to a CCP and comes into effect following the UK's withdrawal from the EU.

#### The Temporary Recognition Regime

8. The SI also establishes a Temporary Recognition Regime (TRR) for non-UK CCPs under UK law. The TRR allows eligible non-UK CCPs, for which recognition decisions have not been made, to continue providing clearing services in the UK for a limited period after the UK's withdrawal from the EU. The criteria for eligibility for entry into the TRR are listed in Annex II to this letter. There will be no fee for entry into the TRR.
9. Non-UK CCPs that enter the TRR will be deemed to be recognised and able to continue providing clearing services in the UK for up to three years from the commencement of the TRR, extendable by HM Treasury in increments of twelve months. CCPs in the TRR that have not already submitted a formal application for recognition must do so within six months of the start of the temporary regime.
10. To enter the TRR, eligible non-UK CCPs will need to inform the Bank before the UK's withdrawal from the EU of their intention to provide clearing services in the UK. They can do this either by providing a notification to the Bank or by submitting an application for recognition before the UK's withdrawal from the EU. The information the Bank expects non-UK CCPs to provide as part of a notification for entry into the TRR is listed in Annex III to this letter. Once the SI comes into force we will make further information available on the Bank website setting out the procedure for non-UK CCPs to make such notifications.
11. Once the TRR comes into effect, the Bank of England is required to publish on its website a list of CCPs that are taken to be recognised under the TRR. Ahead of the UK's withdrawal from the EU, we intend to publish on our website a list of non-UK CCPs that have submitted notifications to the Bank, in advance of the TRR coming into effect and we will be in touch shortly about the process for this.

12. The information we have set out in this letter is based on the functions and powers set out in the SI. Should there be any changes to the SI during the parliamentary approval process the Bank will review and consider any impact on these proposals.

13. Non-UK CCPs are encouraged to contact the Bank by email at [FMI-Enquiries@bankofengland.co.uk](mailto:FMI-Enquiries@bankofengland.co.uk) if they require further guidance with regards to any of the information set out in this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Cunliffe', written in a cursive style.

Sir Jon Cunliffe  
Deputy Governor Financial Stability

## ANNEX

### I. Information required in a CCP recognition application made before the UK's withdrawal from the EU

An application for recognition submitted by a CCP established in a third country shall contain at least the following information:

- a) full name of the legal entity;
- b) identities of the shareholders or members with qualifying holdings;
- c) classes of financial instruments cleared;
- d) details to be included in the Bank of England website<sup>5</sup>;
- e) details of its financial resources, the form and methods in which they are maintained and the arrangements to secure them including default management procedures;
- f) details on the margin methodology and for the calculation of the default fund;
- g) a list of the eligible collateral;
- h) a breakdown of values, in prospective form if needed, cleared by the applying CCP in GBP Sterling;
- i) results of the stress tests and back tests performed during the year preceding the date of application;
- j) its rules and internal procedures with evidences of full compliance with the requirements applicable in that third country;
- k) details of any outsourcing arrangements;
- l) details on segregation arrangements and respective legal soundness and enforceability;
- m) details on the CCP's access requirements and terms for suspension and termination of membership;
- n) details of any interoperability arrangement, including the information provided to the third country competent authority for the purpose of assessing the arrangement.

### II. Eligibility for TRR (excerpt from regulation 17 of the SI)

- a. This regulation applies to a central counterparty established in a third country ('A') if—
  - i. immediately before exit day the central counterparty is—
    1. authorised in accordance with Article 17 of the EMIR Regulation as it then has effect;
    2. recognised in accordance with Article 25 of the EMIR Regulation as it then has effect; or
    3. a central counterparty to which Article 89.4 of the EMIR Regulation as it then has effect applies;
  - ii. the central counterparty has notified the Bank of England in accordance with paragraph (2) that it intends to provide clearing services as a central counterparty in the United Kingdom on and after exit day; and

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<sup>5</sup> The details to be included on the Bank of England website for these purposes are substantially similar to the details required to be included in the ESMA website in accordance with Article 88(1)(e) of Regulation (EU) No 648/2012, read with Article 2 of the RTS 153/2013.

- iii. where the central counterparty has submitted an application under regulation 12, that application has not been determined by the Bank of England.
- b. For the purposes of paragraph (1)(b), the notification must—
  - i. be made before exit day,
  - ii. be made in such manner as the Bank of England may direct, and
  - iii. contain, or be accompanied by, such information as the Bank of England may direct.
- c. The Bank of England must confirm promptly receipt of the notification to the person making it.

III. Information required as part of a notification to enter the TRR.

- 1. Name of the CCP
- 2. Nominated Primary Contact Point at the CCP and contact details
- 3. Asset classes which the CCP is licensed to clear
- 4. Confirmation of eligibility for temporary recognition (see section II above)

Further information about how this notification can be submitted will be provided in due course.