

Consultation Paper Fees regime for financial market infrastructure supervision 2019/20

April 2019



BANK OF ENGLAND





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The Bank of England (the Bank) invites comments on this Consultation Paper. Comments should reach the Bank by 10 June 2019.

Comments may be sent by email to FMIfees@bankofengland.co.uk.

Alternatively, please send comments in writing to:

FMI Fees
Financial Market Infrastructure Directorate
Bank of England
20 Moorgate
London EC2R 6DA

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Copies of this consultation paper are available to download from the Bank's website at www.bankofengland.co.uk.

1 Overview

1.1 This consultation paper sets out proposals for the Bank of England's (the Bank) supervisory fees for financial market infrastructures (FMI) for 2019/20.⁽¹⁾ The proposals include:

- The fee rates to meet the Bank's 2019/20 funding requirement for its FMI supervisory activity and the policy activity that supports this, as permitted by the Bank's fee-levying powers;
- How the Bank intends to apportion shortfalls and surpluses from the 2018/19 FMI fees;
- A proposed fee for non-UK central securities depository (CSD) recognition; and
- A change to the current fee regime for UK central counterparty (CCP) and UK CSD authorisation applications.

1.2 This consultation is relevant to: all FMIs that currently pay FMI supervisory fees to the Bank or are expecting to do so within the 2019/20 fee year;⁽²⁾ and CCPs and CSDs which are planning to apply to the Bank seeking authorisation and non-UK CSDs applying for recognition under relevant UK legislation.

Summary of proposals

1.3 The Bank's annual FMI supervisory fee includes the costs of FMI supervision staff together with relevant policy support, specialist resources, corporate services and other costs associated with the work of the FMI Directorate. The proposed fees for 2019/20 are expected to total £8.5 million. Overall this is an increase of £0.3 million (4%) on the 2018/19 budget.⁽³⁾ The figure is provisional and may need to be revised at the end of the fee year. In the 2019/20 fee year, the Bank expects to recover approximately £0.23 million through a special project fee, which is for supervisory work associated with a significant activity that is time limited and requires additional supervisory resource. The Bank has informed the relevant FMIs of its intention to recover these costs in addition to the annual FMI fee.

1.4 In addition, the Bank intends to allocate a shortfall and rebate in the 2018/19 fees collected among the FMI fee-blocks. There is expected to be a shortfall in the CCP and Payment System fee-blocks and a rebate for the CSD fee-block.

1.5 This consultation paper also includes a proposal to levy fees for recognition of non-UK CSDs. The Bank proposes to levy a fee of £30,000 for each non-UK CSD recognition.

1.6 Finally, the consultation paper proposes an amendment to the existing fees regime relating to the point at which fees for certain applications are payable. This will make the approach relating to all FMI application fees consistent.

Implementation

1.7 The proposed implementation date for the proposals contained in this consultation is 2019 Q3, at which point invoices are expected to be issued for the 2019/20 fee year.

Responses and next steps

1.8 This consultation closes on 10 June 2019. The Bank invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to FMIfees@bankofengland.co.uk

2 FMI fees for 2019/20

2.1 This chapter sets out proposals on FMI fee rates to meet the Bank's 2019/20 funding requirement for its FMI supervisory activity and the policy activity that supports this, as permitted by the Bank's fee-levying powers. For the purposes of this consultation, the Bank has assumed that when the UK withdraws from the EU, it will do so on the basis of a withdrawal agreement including an implementation period covering the whole of the 2019/20 fee year.⁽⁴⁾

2.2 The ratio for allocating fees between the different categories of FMIs remains the same as for the 2018/19 fee year and reflects the different challenges and resourcing requirements posed in supervising different types of FMI and their categories. The ratios of fees charged across the categories of FMI is set out in **Table 1**.

2.3 The total FMI fees that are expected to be collected in the 2019/20 fee year are £8.5 million. **Table 2** sets out the expected charge for each category of FMI.⁽⁵⁾

(1) For the purposes of this policy statement, the term FMI refers to central counterparties, central securities depositories, recognised payment systems, and specified service providers to recognised payment systems.

(2) The 2019/20 fee year began on 1 March 2019 and will end on 29 February 2020.

(3) The calculation is based on gross fees for 2018/19 to allow for comparison. In actuality, the fees charged to FMIs within scope of the regime in 2018/19 were a pro-rata amount due to the introduction of the regime partway through the fee year.

(4) Please see the joint Bank and PRA *Policy Statement PS5/19, 'The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018'* (www.bankofengland.co.uk/paper/2019/the-boe-amendments-to-financial-services-legislation-under-the-eu-withdrawal-act-2018) for further information on the Bank's amendments to rules and standards under the European Union (Withdrawal) Act 2018; the joint Bank and PRA Statement of Policy (SoP), 'Interpretation of EU Guidelines and Recommendations: Bank of England and PRA approach after the UK's withdrawal from the EU' (www.bankofengland.co.uk/paper/2019/interpretation-of-eu-guidelines-and-recommendations-boe-and-pra-approach-sop); and the Bank's Supervisory Statement 'Non-binding Bank materials relating to Financial Market Infrastructure Supervision: The Bank's approach after the UK's withdrawal from the EU' (www.bankofengland.co.uk/-/media/boe/files/paper/2019/non-binding-bank-materials-relating-to-fmi-supervision-eu-withdrawals).

(5) These are rounded figures and FMIs within scope of the regime can expect to be billed exact amounts.

Table 1 Fee ratio across FMI categories^(a)

CCPs — the ratio between category one, category two and category three CCPs	1.75 : 1.00 : 0.57
CSDs — the ratio between category one, category two and category three CSDs	1.50 : 1.00 : 0.67
Recognised payment systems and specified service providers — the ratio between category one and category two firms	1.50 : 1.00

(a) The FMI categories are described as follows: Category 1 — most significant systems which have the capacity to cause very significant disruption to the financial system by failing or by the manner in which they carry out their business; Category 2 — significant systems which have the capacity to cause some disruption to the financial system by failing or by the manner in which they carry out their business; and Category 3 — systems which have the capacity to cause at most minor disruption to the financial system by failing or by the manner in which they carry out their business.

Table 2 Fees for 2019/20 fee year

	CCPs	CSD	Payment systems and service providers
Category 1	£1.98 million	£0.98million	£0.57million
Category 2	£1.13 million		£0.38million
Category 3			

2019/20 FMI fees and comparison with 2018/19⁽⁶⁾

2.4 The 2019/20 CCP fee-block charge is expected to increase by 1% and the Payment System fee-block charge by 16%. The increase in the 2019/20 fee in both cases is caused by an increased focus on supervisory work relating to operational resilience over the course of the fee year. In addition, a recalibration of resource related to this work across the FMI fee-blocks has led to a larger increase for the payment systems and service providers fee-block this year.

2.5 The 2019/20 CSD fee-block charge is expected to decrease by 6% compared to 2018/19. This is due to a proposed reduction in spending allocated to the CSD fee-block in 2019/20 for work related to the Central Securities Depositories Regulation (CSDR).⁽⁷⁾

2.6 In the June 2018 policy statement on the 'Fees regime for the supervision of financial market infrastructure',⁽⁸⁾ the Bank stated that fees charged to FMIs could include work on special projects that fall under the Bank's supervisory remit for FMIs and are in the scope of the Bank's fee-levying powers. It also stated that it considers special projects to be one-off or significant activities that may be time limited and require additional supervisory resource. As a result of a time-limited and significant project that falls within scope of the fee-levying powers, the Bank intends to levy a special project fee for the 2019/20 fee year and has discussed this bilaterally with the FMIs involved. It is expected that the Bank will recover approximately £0.23 million through levying this special project fee in 2019/20.

3 Shortfall/surplus for 2018/19

3.1 As set out in the June 2018 policy statement on the 'Fees regime for the supervision of financial market infrastructure', the Bank will set FMI fees based on the

expected business-as-usual supervisory resource expenditure for the upcoming fee year.⁽⁹⁾ Where the Bank's spend is greater or less than anticipated, the Bank will consider adjusting its annual supervisory levy for the following fee year to account for any under or overspends. Following a final review of supervisory resource allocation in 2018/19, the Bank intends to invoice FMIs for the shortfall between the total amount of fees collected and the actual spend for the CCP and payment systems fee-blocks in relation to the 2018/19 fee year. The amount of the shortfalls are set out in **Table 3**. This is a draft figure, subject to audit and may be subject to change, with the final figure to be confirmed when the final policy is published. The shortfall has arisen as a result of changing supervisory priorities over the course of 2018/19 and an increase in supervisory resources allocated to work in relation to the UK's exit from the EU.

Table 3 Shortfall in fees for 2018/19 fee year

	CCPs	Payment systems and service providers
Category 1	£18,219	£28,768
Category 2	£7,091	£19,179

3.2 The Bank intends to refund the difference between the total amount of fees collected and actual spend for the CSD fee-block in relation to the 2018/19 fee year. The amount of the refund is set out in **Table 4**. The reason for this refund is a decrease in costs allocated to the CSD fee-block associated with the CSDR. As stated above, this is a draft figure, subject to audit and may be subject to change, with the final figure to be confirmed when the final policy is published.

Table 4 Surplus in fees for 2018/19 fee year

	CSD
Category 1	(£131,032)

3.3 Invoices for the 2019/20 FMI fees will include any shortfall or rebate from the 2018/19 fee year.

4 Proposed fee for the recognition of non-UK CSDs

4.1 The Central Securities Depositories (Amendment) (EU Exit) Regulations 2018, which were made on 6 December 2018, confer on the Bank the powers to receive, assess and

(6) The comparison is based on gross fees for 2018/19. In actuality, the fees charged to FMIs within scope of the regime in 2018/19 were a pro-rata amount due to the introduction of the regime partway through the fee year.

(7) See 'The Bank of England's supervision of financial market infrastructures — Annual Report 2017/18' for more detail on the CSDR: www.bankofengland.co.uk/-/media/boe/files/annual-report/2018/supervision-of-financial-market-infrastructures-annual-report-2018.

(8) www.bankofengland.co.uk/-/media/boe/files/paper/2018/fees-regime-for-the-supervision-of-financial-market-infrastructure-fmi.

(9) www.bankofengland.co.uk/-/media/boe/files/paper/2018/fees-regime-for-the-supervision-of-financial-market-infrastructure-fmi

make decisions in relation to recognition applications from non-UK CSDs after the UK's withdrawal from the EU.⁽¹⁰⁾ Once an equivalence decision is made by HM Treasury in relation to a third country, the Bank may recognise a CSD in that third country. The process for the recognition of non-UK CSDs will be based on that set out in the CSDR.⁽¹¹⁾

4.2 On 26 March 2019, the Uncertified Securities (Amendment and EU Exit) Regulations 2019 ('the SI') were made. The SI amends the Central Securities Depositories Regulation 2014 to provide the Bank with the power to require non-UK CSDs to pay fees to the Bank in connection with the discharge of any of its qualifying functions.⁽¹²⁾⁽¹³⁾

4.3 The Bank proposes to levy a fee of £30,000 for each non-UK CSD recognition. The Bank considers this to be a fair, reasonable and proportionate fee based on a calculation of the Bank's expected work effort and associated costs anticipated to be incurred in handling all aspects of non-UK CSD recognition applications. This includes a review of information submitted to the Bank by applicant non-UK CSDs, the establishment of co-operation arrangements with relevant competent authorities for the non-UK CSD and any technical advice provided to HM Treasury by the Bank. The Bank proposes to apply a consistent fee for all applicant non-UK CSDs, regardless of whether there is more than one application from a given jurisdiction. The Bank believes that such an approach is the fairest way to recover the costs associated with recognition of non-UK CSDs, and is in line with the approach consulted upon for the recognition of non-UK CCPs in October 2018.⁽¹⁴⁾

4.4 The fee will be payable once the non-UK CSD has been recognised by the Bank. A fee will not be chargeable for notification of intent to continue to provide CSD services in the UK using the transitional provisions.⁽¹⁵⁾ Engaging with the Bank informally to assist with its pre-application process, which the Bank encouraged non-UK CSDs to do in letters sent in October 2018, does not incur a fee.⁽¹⁶⁾ Where a non-UK CSD has already provided the Bank with information for the purpose of entering into the transitional regime, a fee will only be incurred if the non-UK CSD chooses to make a formal application, or it gives explicit consent for this information to be taken by the Bank to be part of a formal application, and would be payable once it has been recognised.

4.5 The Bank proposes to keep this fee level under review to determine whether it is set appropriately.

5 A change to the current fees regime to the point at which fees for certain applications are payable

5.1 As set out in the June 2018 policy statement on the 'Fees regime for the supervision of financial market

infrastructure', the Bank has powers to charge fees in relation to certain applications.⁽¹⁷⁾ In order to clarify the policy on payment of fees for different types of FMI application, the Bank proposes to make an amendment to the current process for paying application fees as set out in the June 2018 policy statement. This will apply to applications from:

- UK CCPs seeking authorisation under EMIR in accordance with the Financial Services and Markets Act 2000 (FSMA);
- UK CSDs seeking authorisation under the Central Securities Depositories Regulation (CSDR) in accordance with FSMA;
- FMIs seeking designation under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, where the Bank is the relevant designating authority; and
- Fees for non-UK CCPs applying under section 170B of the Companies Act 1989 for an order of the Bank recognising that the relevant provisions of that CCP's default rules satisfy the relevant requirements.

5.2 Currently, FMIs making such applications would be expected to pay their application fee at the time of application. However, in order to align the various FMI application regimes, the Bank proposes to change the charge point for these applications from the point of application to the point at which the FMI is authorised, recognised or designated or the order is made (as applicable). This change should benefit FMIs seeking to make an application under these provisions as they would not need to pay the fee in advance but rather at the time that the application process concludes successfully. It also helps simplify and align the Bank's application regimes for different types of FMI.

(10) For further information, please see The Central Securities Depositories (Amendments) (EU Exit) Regulations 2018 and accompanying Explanatory Memorandum, which are available at the following link: www.legislation.gov.uk/uksi/2018/1320/contents/made.

(11) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012. 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.

(12) See Regulation 16 of the SI and Part 8A of the Central Securities Depositories Regulations 2014.

(13) For further information on HM Treasury's approach to bringing EU financial services legislation into domestic law under the European Union (Withdrawal) Act, please see the following link: www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act.

(14) The Bank's October 2018 consultation paper on fees for non-UK CCP applications for recognition 2018/2019 is available at the following link: www.bankofengland.co.uk/paper/2018/fees-for-non-uk-ccp-applications-for-recognition-2018-19.

(15) www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/interim-list-of-third-country-csd.pdf.

(16) The October 2018 letter is available at the following link: www.bankofengland.co.uk/-/media/boe/files/letter/2018/letter-to-csds.

(17) www.bankofengland.co.uk/-/media/boe/files/paper/2018/fees-regime-for-the-supervision-of-financial-market-infrastructure-fmi.