July 2019

Fees regime for financial market infrastructure supervision 2019/20

Policy Statement

Responses to Consultation on 'Fees regime for financial market infrastructure supervision 2019/20', fee rates for the 2019/20 fee year and Statement of Policy

(Updating June 2018)

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1 Introduction

This Bank of England (the Bank) Policy Statement (PS) provides feedback to responses to the Consultation Paper (CP) 'Fees regime for financial market infrastructure supervision 2019/20'. The PS also sets out:

- the final fee rates to meet the Bank's 2019/20 funding requirement for its financial market infrastructure (FMI) supervisory activity and the policy activity that supports this, as permitted by the Bank's fee-levying powers;
- how the Bank will apportion the surplus and shortfalls from the 2018/19 FMI fee year;
- the fee for non-UK central securities depository (CSD) recognition; and
- the confirmation of a change to the fee regime for certain central counterparty (CCP) and CSD authorisation applications. This section should be read in conjunction with the 'Fees regime for the supervision of financial market infrastructure (FMI) Policy Statement June 2018'.

This PS 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;(1) CCPs and CSDs which are planning to apply to the Bank seeking authorisation and non-UK CSDs applying for recognition under relevant UK legislation; and applicants for settlement finality designation.

Feedback to responses

The Bank's public consultation on the fees regime for FMI supervision 2019/20 ran from 15 April 2019 until 10 June 2019. The Bank received three responses to the consultation. Having carefully considered these responses, the Bank does not propose to make any changes to the proposals that were set out in the CP. Details on the consultation feedback and the Bank's responses to the feedback can be found in Chapter 2.

Implementation

Invoices are expected to be issued in August for the 2019/20 fee year. Invoices will include any rebate or shortfall from the 2018/19 fee year.

2 Feedback to responses

The Bank received three responses which commented on six aspects of the fee regime for FMI supervision.

Overall approach to the FMI annual fee

One response suggested that FMIs, and in particular CCPs, reduce overall risks in the financial system and promote market stability. As such, their incentives are aligned with public policy outcomes and entities which introduce risk into the financial system, for example through trading activity, should continue to contribute to FMI supervision.

The rationale for introducing an FMI fee-levying regime in 2018 was to allocate the costs of FMI supervision to those entities that directly benefit from the Bank's supervision. The fee-levying regime is therefore a more proportionate approach compared to the previous funding model and provides greater transparency and accountability in the delivery of the Bank's FMI supervision functions.(2) The Bank believes the full allocation of FMI supervisory costs to FMIs is an appropriate and proportionate approach to the funding of FMI supervision. The Bank acknowledges that CCPs are not risk-takers in the same sense as other financial market participants. However, they can be highly systemically important to the smooth functioning of the financial system and to financial stability more generally. The safe operation of CCPs, and the Bank's role in supervising them, is a key plank for maintaining financial stability in the United Kingdom.

Fee methodology

One response suggested that the ratio of fees payable across the categories of FMI should be reassessed in line with the risks posed to the Bank's objectives. The response also questioned the higher fees for CCPs than for the other FMIs captured within the fee regime and questioned whether this was aligned with their respective levels of systemic importance.

The Bank's powers to charge fees do not allow for cross-subsidisation between different types of FMI. The Bank's fees for FMIs are based on their importance to the financial system, with reference to the allocation of supervisory resource costs across the different types of FMIs. As such, the fees levied on each type of FMI are a reflection of the supervisory resource which is allocated, as well as the powers the Bank has to levy such fees. The Bank keeps under review the level of supervisory resource that is allocated to the population of FMIs which are supervised by the Bank, with a view to ensuring it is appropriate and proportionate.

Shortfall of FMI fees

One response suggested the Bank should cap the amount of additional fees that it might call at the end of the fee year.

The Bank acknowledges the importance of this issue to FMIs, especially with regard to setting annual budgets. However, the annual fee is set on the basis of expected business-as-usual supervisory resource expenditure for each type of FMI for the upcoming fee year. The Bank operates the FMI fee regime on a cost recovery basis and therefore undertakes a final adjustment of the annual fee at the end of the fee year. In 2018/19 a shortfall for certain FMIs arose as a result of changing supervisory priorities over the course of the year and an increase in supervisory resources allocated to

(1) The 2019/20 fee year began on 1 March 2019 and will end on 29 February 2020.
(2) The costs of FMI supervision were previously funded through Cash Ratio Deposit income. For more information, see 'Fees regime for the supervision of financial market infrastructure (FMI) Policy Statement June 2018'.

certain work, such as in relation to the UK's withdrawal from the EU.

The Bank will endeavour to give FMIs as much notice as possible if there are any exceptional changes to the annual fee due to circumstances not anticipated at the start of the fee year.

Timing of the FMI annual fee regime

One response suggested that the Bank should set its annual fee at the beginning of the financial year.

The FMI annual fee regime runs according to the Bank's financial year. As such, each fee year runs from 1 March until end-February. This timeline aligns with the Prudential Regulation Authority's (PRA's) process for levying fees to meet the PRA Annual Funding Requirement. The Bank does not intend to change the timeline for setting the annual fee for FMIs.

Proposed fee for the recognition of non-UK CSDs

The Bank received one response to the consultation on recognition fees for non-UK CSDs. This response suggested that the Bank should reconsider charging fees for non-UK CSD recognition. In response, the Bank notes that it has not charged a fee for entry into the CSD transitional regime, which will allow eligible non-UK CSDs to continue to offer CSD services in the UK until recognition has been granted. The Bank further notes that the proposed fee for the recognition of non-UK CSDs is consistent with and proportionate to the fees charged for recognition of non-UK CCPs.

Fees for designation under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 for non-UK systems

Two responses suggested that the Bank should not charge fees to non-UK CCPs and CSDs recognised by the Bank for UK settlement finality designation. This was on the grounds that this would duplicate regulatory fees.

In response, the Bank notes that it does not at this time intend to charge fees to non-UK law FMIs for UK settlement finality designation.

3 FMI supervisory fees for 2019/20

Taking into consideration the comments received, the ratios for allocating fees between the different categories of FMIs remain the same as for the 2018/19 fee year and are confirmed in **Table 1**.

The Bank can confirm that the supervisory fees for the 2019/20 fee year will, in line with the estimates consulted on, be as set out in **Table 2**.(3)

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 providrs
Category 1	£1.98 million	£0.98 million	£0.57 million
Category 2	£1.13 million		£0.38 million
Category 3			

4 Shortfall/surplus for 2018/19

The shortfall for the 2018/19 fee year for the CCP and payment systems fee blocks is set out in **Table 3** and the surplus for the 2018/19 fee year for the CSD fee block is set out in **Table 4**. Invoices for the 2019/20 fee year will include any rebate or shortfall from the 2018/19 fee year.

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

Table 4 Surplus in fees for 2018/19 fee year

	CSD
Category 1	(£131,032)

5 Fee for the recognition of non-UK CSDs

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 make decisions in relation to recognition applications from non-UK CSDs after the UK's withdrawal from the EU. 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 is set out in Article 25 of the onshored Central Securities Depositories Regulation (CSDR).

On 26 March 2019, the Uncertificated Securities (Amendment and EU Exit) Regulations 2019 ('the SI') were made. The SI

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

amends the Central Securities Depositories Regulations 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.

The Bank will 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 will apply a consistent fee for all applicant non-UK CSDs, regardless of whether there is more than one application from a given jurisdiction.

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. 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. 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.

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

6 The point at which fees for certain applications are payable

This section should be read in conjunction with the 'Fees regime for the supervision of financial market infrastructure (FMI) Policy Statement June 2018'. In relation to the applications that are set out below, the Bank will charge a fee at the point at which the FMI is authorised, recognised or designated or the order is made (as applicable):

- UK CCPs seeking authorisation under the European Market Infrastructure Regulation (EMIR) in accordance with the Financial Services and Markets Act 2000 (FSMA);
- UK CSDs seeking authorisation under the CSDR in accordance with FSMA;
- UK law FMIs seeking designation under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999, where the Bank is the relevant designating authority; and
- 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.

The fees charged for these applications remain unchanged at this time and are set out in the 'Fees regime for the supervision of financial market infrastructure (FMI)' published in June 2018. The amount of each application fee will be kept under review.