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Incoming FMI Framework Team
Financial Market Infrastructure Directorate
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Re: Consultation Paper: The Bank of England's fees regime for incoming central counterparties

The Global Association of Central Counterparties ("CCP12") is the international association for central counterparties ("CCPs"), representing 40 members who operate over 60 CCPs across the Americas, EMEA, and the Asia-Pacific region.

CCP12 appreciates the opportunity to comment on the Bank of England's ("Bank") consultation paper on *The Bank of England's fees regime for incoming central counterparties*¹ ("the Consultation Paper"). The level of recognition and supervisory fees for incoming CCPs is an important topic for CCPs worldwide that may want to provide or continue to provide clearing services in the United Kingdom ("UK") under the on-shored European Market Infrastructure Regulation ("EMIR"). The level of fees is also vital from the perspective of UK market participants, including those that are a part of non-UK financial groups, who use non-UK markets to manage their risks and thus need to maintain and expand access to clearing services offered by incoming CCPs.

Introductory remarks

As set forth in more detail in our comments below, we are concerned that the current proposal on supervisory fees for non-UK CCPs appears to be inconsistent with global best practices. We believe this inconsistency has the potential to undermine the ability of UK market participants to effectively manage their risks by cutting off UK entities from accessing non-UK CCPs, especially small and mid-sized ones. If the proposal were to be implemented in its current form, we fear that it could serve as a justification for regulators in other jurisdictions to adopt the same approach, resulting in significant increases in the cost of central clearing globally, which could eventually lead to reduced cross border access to CCP risk management services. Rather, we propose that the Bank seek to lower its supervisory costs in relation

¹ Bank of England, Consultation Paper, The Bank of England's fees regime for incoming central counterparties (June 2022), available at [Link](#)

to non-UK CCPs, which would be consistent with its policy of deference to a non-UK CCP's home supervisory regime.

While we understand the Bank's desire to collect fees to cover its supervisory costs, we are concerned that the proposal does not provide sufficient information and analysis about how the proposed fee levels were determined, or how fees will be determined in subsequent years. Accordingly, it is difficult for non-UK CCPs and market participants to assess how much they will have to pay under the proposed approach to cover the Bank's supervisory costs in the medium and long-term. We also believe that a discussion about how the proposal can be implemented equitably among all non-UK CCPs is necessary.

Comments regarding fees for Tier 1 CCPs

In the proposal, Tier 1 CCPs are categorized into Groups B, C, or D. Whereas the proposed flat fixed fee of GBP 9,000 for the smallest CCPs for the 2022/23 fee year appears reasonable, the fees for Groups B and C, amounting to GBP 300,000 and GBP 90,000 respectively, seem particularly high, especially for CCPs which are not systemically important or likely to become systemically important for the financial stability of the UK and are already supervised by regulators in their home country. CCP12 takes the position that fees should be commensurate with other jurisdictions that charge such fees, if any, and reflect the role of the host country authorities. At a minimum, we think that it would be prudent for the Bank to conduct a comparative study of the fees charged in other jurisdictions and disclose the results. In so doing, the Bank would have more information to enable it to establish fees that optimize the availability of clearing services to market participants while also off-setting its supervisory costs for non-UK CCPs. The Bank should also apply fees that consider the deference it is able to apply to home country authorities with respect to non-UK CCPs, which should serve to reduce the Bank's supervisory costs and allow it to lower its fees accordingly. This is completely reasonable given that the incoming CCP would already be regulated in its home country in accordance with a regulatory and supervisory framework that has been deemed equivalent to the UK's framework.

In addition to that, we have concerns that the system of "grouping" CCPs might be unpredictable under the proposed fee regime. As stated in the Consultation Paper, "[i]ncoming CCPs would be placed into 'groups' based on the level of monitoring and/or supervisory activity anticipated to be undertaken by the Bank, which will primarily depend on the risk the Bank considers the incoming CCP to pose to UK financial stability (while also taking into account the degree of deference applied with respect to the home supervisory regime)." This means that the annual fees would only be estimates and would possibly be subject to change, which would make it difficult for CCPs to adequately budget for these expenses. Another potential source of uncertainty relates to the possibility of higher fees being imposed when non-UK CCPs expand their clearing services, as the description of Group C in the Annex seems to suggest.

Further to our points above regarding what appears to be a lack of transparency and some incomplete analysis around how this approach would work long-term, the proposed schedule is only for the 2022/23 fee year and the Consultation Paper does not provide any indication as to the level of supervisory fees in the subsequent years. This lack of predictability with respect to supervisory fees presents a challenge for non-UK CCPs in deciding whether to serve the UK market. Even for those non-UK CCPs currently servicing the UK market, the inability to budget for regulatory fees in the medium- to long-term could

impact their willingness to continue to serve the UK market. For that reason, CCP12 believes it is very important to have clarity and transparency on the supervisory fee for the coming year as soon as possible.

We would also appreciate additional consideration from the Bank about how fees may be adjusted at the end of the fee year, which we understand may result in either a rebate or an additional invoice the following year. The budget cycle for several non-UK CCPs concludes at the end of the third quarter and so CCP12 would appreciate it if the Bank could determine the assessments prior to that time in order to avoid unpredictability in the CCPs' budget cycle. It also appears that some CCPs may be negatively impacted by other CCPs belonging to the same group as the "adjustments will be made in equal proportion across all CCPs in Groups A, B and C." CCP12 finds this to be very concerning. We believe the Bank is capable of budgeting appropriately and making prudent use of its supervisory resources and therefore should be able to keep within the level of fees established at the outset of the year.

When it comes to the base recognition fee, CCP12 believes that the Bank should endeavour to provide more information about the basis for the increase from GBP 35,000 to GBP 50,000. The justification put forth is "the Bank's experience of the work required to provide equivalence advice to HMT, and the addition of a tiering process in EMIR, as well as the Bank's up-to-date resource costs." In our opinion, at a minimum, the costs of the equivalence advice to HMT should not be covered by fees charged to the incoming CCPs. We believe that the Bank's intention is neither to cause uncertainty nor to create burdens on access to and ongoing clearing membership.

Comments regarding fees for Tier 2 CCPs

With reference to the non-UK CCPs, which would be deemed to be Tier 2 CCPs, the total proposed costs of recognition and supervision would be extraordinarily high. First, the proposed annual fee of GBP 1,200,000, which would be applied to Tier 2/Group A CCPs, is exceptionally high both in absolute terms and in comparison with what is charged by most other major jurisdictions. The proposed recognition fee for Tier 2 CCPs, which would be a combination of a GBP 50,000 base recognition fee and a GBP 150,000 supplementary recognition fee, also seems excessive. Here, as well, the lack of a precise level of the supplementary recognition fee could be a source of uncertainty for incoming CCPs, as the Bank has only said that it anticipates it will be "in the order of" GBP 150,000. Moreover, there is a lack of analysis included in the Consultation Paper as to the basis for the huge difference in fees between Group A and B.

With reference to the comparable compliance assessment which would result in a Tier 2 CCP having to pay an additional GBP 30,000, CCP12 is of the opinion that, as is the case with the recognition fees, the comparable compliance fee should be charged only when the decision is positive.

Issue connected with the QCCP status

CCP12 would also request the Bank to consider the ramifications of its fees on non-UK CCPs relative to the availability of clearing services and the costs of those services to market participants. A broad increase or continued uncertainty around fees could give rise to an issue related to the UK's bank capital regime on qualifying central counterparties ("QCCPs") since it is directly linked to non-UK CCPs being

recognized by the Bank according to Appendices 1 and 4 of the Policy Statement PS22/21 *Implementation of Basel standards: Final rules* of October 2021² (as is the case in the European Union under the Capital Requirements Regulation). Based on these rules, banks and investment firms are subject to a significantly lower capital requirement for exposures to QCCPs compared to exposures to non-QCCPs. If the proposed elevated fees disincentivize non-UK CCPs from obtaining recognition, this could negatively impact the business of UK financial groups, as they would incur significantly higher capital costs on their exposures to unrecognized non-UK CCPs. This would be the case even if their UK entities are not direct clearing members of these CCPs.

Conclusion

CCP12 supports the Bank's efforts to ensure that the UK financial market remains resilient and robust. Nevertheless, we find the proposed recognition fees for incoming CCPs, particularly with regards to Tier 2 CCPs, and supervisory fees for both Tier 1 and Tier 2 CCPs, to be exceptionally high compared to what other major jurisdictions charge, if anything, to incoming CCPs. We believe that our recommendations to review fee structures in other jurisdictions, to charge lower fees given that the Bank can defer to home country authorities, and to provide greater certainty on fees would be much more consistent with an open competitive globally-interconnected market and could incentivize, as opposed to deter, non-UK CCPs interested in offering their clearing services to the UK market. This in turn could improve UK firms' ability to access offshore markets to effectively manage their risks. On the other hand, too high a level of fees could deter non-UK CCPs from applying for recognition and providing their services in the UK, which could undermine the spirit of the post-financial crisis regulatory reforms, which aimed to expand central clearing and allow market participants to enjoy the benefits of central clearing.

CCP12 hopes that at least some of the recognition and annual supervisory fees as proposed by the Bank can be reduced so that they are more appropriate and adjusted to provide more predictability and transparency.

² Bank of England, Prudential Regulation Authority, Policy Statement PS22/21, *Implementation of Basel standards: Final rules* (October 2021), available at [Link](#)

About CCP12

The Global Association of Central Counterparties (“CCP12”) is the international association for central counterparties (“CCPs”), representing 40 members who operate over 60 CCPs across the Americas, EMEA, and the Asia-Pacific region.

CCP12 promotes effective, practical, and appropriate risk management and operational standards for CCPs to ensure the safety and efficiency of the financial markets it represents. CCP12 leads and assesses global regulatory and industry initiatives that concern CCPs to form consensus views, while also actively engaging with regulatory agencies and industry constituents through consultation responses, forum discussions, and position papers.

For more information, please contact the office by e-mail at office@ccp12.org or through our website by visiting www.ccp12.org.

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