European Association of CCP Clearing Houses

EACH response to the Bank of England's fees regime for financial market infrastructure supervision 2024/25

December 2024

1. Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 18 members from 14 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

The Bank of England has published a consultation paper[1] on the 2024/25 fees regime for financial market infrastructure supervision. In this response, EACH addresses the most relevant issues for EACH Members arising from the Bank of England's proposals as set out in the consultation paper.

EACH agrees to the publication of the association's name in the Bank's feedback response to this consultation.

2. Response

2.1 Proposals

In response to the Bank of England's proposals on the fees for financial market infrastructures (FMI) for 2024/25, we would like to highlight the following points:

2.1.1 Continuous fee increase

According to the consultation paper, the policy work for the development of the CCP rulebook appears to be the most significant factor driving fee increases this year. Despite this, supervisory fees continue to increase: "For 2024/25, this approach would result in a 31.2% increase in CCP fees compared to 2023/24 (excluding the rulebook instalment of £1.5 million, the increase is 10.7%)."

EACH Members would welcome some clarity from the Bank on the long-term plan for the funding of the supervisory function. EACH Members believe that the Bank should now have reached a steady state level of fees enabling it to deal with the costs of supervision, policy and ad-hoc developments as they emerge. Working within a consistent budget creates a consistent environment for FMIs and can also encourage appropriate prioritisation of supervisory projects.

2.1.2 Possible double impact of fees

Under the Financial Services and Markets Act, section 166, the authorities have the power to commission a third-party person or firm (a Skilled Person) to perform a review of a supervised firm. The ensuing costs are borne by the regulated entity instead of by the commissioning Authority. EACH Members observe an increase in the use of these reviews by

[1] https://www.bankofengland.co.uk/paper/2024/cp/boe-fees-regime-for-fmi-supervision-2024-25

Skilled Persons as a supervisory tool, and express concerns that this increase, together with the proposed increase in supervisory fees, may result in CCPs having to withstand a double impact on the fees that are required of them.

2.1.3 Supervisory vs Policy fees

EACH Members observe that the increase in fees is primarily motivated by the policy work to create the UK CCP rulebook, but they believe that CCPs subject to the Bank's supervision should not be paying for the Bank's policy work. According to the Bank's fee-levying regime, "The Bank has statutory powers to require FMIs to pay fees relating to supervisory work and for certain applications".

An increase in fees for the development of policies (like the UK CCP rulebook) would appear incompatible with the basis on which the Bank is permitted to levy fees and we therefore question whether it is justifiable. Furthermore, levying material fee increases to pay for policy development both constitutes an undesirable precedent for CCPs and may even work against the UK remaining a desirable jurisdiction from which to conduct clearing business.

2.1.4 Phasing in and return to normal

In the past, large increases in FMI fees were implemented over a more extended period. This time, however, the Bank proposes to "spread the charging for this cost across three years in annual instalments of £1.5 million". EACH Members would welcome a comment from the Bank explaining why the phasing period is so short in this instance. We claim that extending the phasing-in period would reduce the impact on the supervised CCPs.

Additionally, the consultation paper states that after the initial period of three years, the additional cost will disappear and only a small ongoing cost will remain, with the goal to maintain the Rulebook. EACH Members are concerned that the increased fees, if implemented, will become normalised and risk not falling back to their previous level. Should the Bank, notwithstanding the comments above, decide to proceed with the fee increases specific to rulebook development, we would welcome the Bank's commitment to return to normal fee levels after the rulebook development instalments have been paid.

2.1.5 Proportionality across FMIs

EACH Members urge the Bank to consider a more proportional approach with regard to the distribution of supervisory fees across FMIs particularly when considering CCPs and Payment Systems (Table B).

CCPs contain, control, and manage risks: their objectives are aligned with public policy objectives in that respect. Against this background, EACH Members believe that costs related to the preservation of financial stability and management of systemic risk (including the costs for supervision of FMIs), should remain at least partially allocated to the entities whose trading activity introduces risks rather than entirely allocating costs to the CCPs responsible for managing and mitigating these risks.

In terms of risks to stability and continuity, other types of FMIs, and particularly Payment Systems, can have very high impacts on users beyond the financial sector. If a Payment System has an outage, it can affect payrolls, bill payments, cash machines, retail transactions, and house purchases, all of which have high profile impacts on the real economy.

Despite this, the fees for Category one CCPs are now almost four times those for Payment Systems in the same category, something that we believe is questionable and should be more balanced.

2.2 Bank of England objectives analysis: incompatibility with innovation objective

The Bank's Primary Objective is to ensure Financial Stability. It has recently been given a secondary objective relating to Financial Market Infrastructure to "*where possible, facilitate innovation in the provision of central counterparty (CCP) and central securities depositories (CSDs) services when advancing the primary financial stability objective*".

The unexpected significant increases in fees may inhibit financial planning and investment on the part of clearing services. FMIs may be required to allocate funds as a contingency against unexpected potential large increase in fees, thereby restricting resources that could otherwise be used to invest in innovation in the provision of clearing services. Therefore, this would not appear compatible with the Bank's secondary objective to facilitate innovation in the provision of FMI services.

2.3 'Have regards' analysis: insufficient advance notice

As per the Bank's policy statement on fees, where significant policy changes are envisaged to the fee regime, for example a change in methodology, the Bank may consult on these separately. This could be expected to take place in the autumn preceding the start of the fee year in which they are intended to take effect.

EACH Members would welcome some clarity from the Bank as to why there were no previous consultations on the extent of those increases and/or the distribution of fees across FMIs. Given that a considerable increase was envisioned, EACH Members request the Bank to give more notice than a 'to be expected' fee increase, to allow for appropriate financial planning on the FMIs' part.

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