

ISDA response to the consultation paper on the Bank of England's approach to using its requirements and permissions powers to facilitate mobilisation of new CCPs¹

Executive Summary

ISDA welcomes the Bank of England's (the Bank's) proposal to support the mobilisation of new CCPs. Facilitating the mobilisation of new CCPs may foster innovation in the sector, unlocking the benefits of industry solutions and advanced technologies, for example through the development of DLT-native CCPs and clearing offers that enable the use of tokenized assets as collateral. In that regard, as we understand that the Bank developed its approach to the mobilisation of new CCPs as a means of fostering innovation, we also believe that both new and currently authorised CCPs should be able to benefit from the Bank's proposed approach, in order to support the Bank's innovation objective and a level playing field. Currently authorised CCPs may also introduce new clearing services or new functionality with distinct risk profiles, such as new asset classes or new forms of collateral, which can be functionally similar to "mobilisation phase". The Bank should therefore extend the draft Statement of Policy (SoP) to cover all CCPs, or issue a separate SoP in future, supporting innovation in currently authorised CCPs.

On how the Bank intends to use its permission powers, we also suggest that the framework should more explicitly specify safeguards to protect clearing members. In particular, de minimis limits and any modifications or waivers to rules should be explicitly linked to risk, and disclosed promptly to market participants. The Bank could also set out quantitative detail on what would constitute de minimis, as well as what would the consequences be in the event of any breach. ISDA recommends that the firms seeking regulatory relief during mobilisation should demonstrate a credible plan to meet the full unmodified rule set by the end of the period. ISDA also recommends that certain requirements from the CCP rulebook, including governance, capital and skin in the game, should only be minimally modified. Rules on incident reporting should apply in full for CCPs in mobilization stage.

Greater clarity would also be welcome on how the mobilisation regime would interact with other initiatives, such as the Digital Securities Sandbox.

Finally, the Bank could commit to publishing an assessment of the effectiveness of its final approach in supporting innovation in due course, to enable the Bank and the industry to learn lessons from this novel regulatory approach to UK CCPs.

¹ [The Bank of England's approach to using its requirements and permissions powers to facilitate mobilisation of new CCPs | Bank of England](#)

Responses to questions

Do you have any comments on the Bank's proposed approach to using its requirements powers to impose de minimis limits during mobilisation via a VREQ application as set out in this CP and draft SoP?

We welcome the overall approach to setting de minimis limits during mobilisation. Our key comment in that regard is with a view to ensuring that existing or prospective users of a CCP in mobilisation benefit from an appropriate level of disclosures on these limits.

We note that the Bank explains that de minimis limits "could include, non-exhaustively, limits on different aspects of the prospective CCP's business, such as the scope and volume of clearing activity, CCP membership, and loss and/or risk metrics", and that such limits should minimise activity to low levels.

We agree with the specification in the statement of policy, under paragraph 2.3, that the VREQ application should set out "how the de minimis limit(s) would constrain the volume of risk or activity to a minimal level that the new CCP would be able to undertake to levels suitable for live testing purposes." The de minimis limits and VREQ constraints applied to the CCP should be disclosed to existing and prospective clearing members, during the mobilisation stage, and any change should also be disclosed. Clearing members should receive advance notice of any VREQ variation that may affect their risk exposure. The Bank should also maintain a public register of CCPs in mobilisation.

We encourage the Bank to provide further quantitative detail on what could constitute de minimis, for example in terms of initial margin, volumes or number of clearing members. This would support a shared understanding and provide further transparency.

As regards compliance with the de minimis limits, we note that the draft SoP does not clearly set out consequences for breaching the de minimis limits. This should be specified in the statement of policy, including how clearing members would be made aware that a breach has occurred. Clearing members should have a contractual right to withdraw if a material VREQ breach is not remediated within a defined period.

We query whether allowing up to 60 working days after submission of the initial attestation by a CCP of its intent to submit a VREQ application as part of its mobilisation application might undermine the Bank's ability to conduct a risk assessment in the round, considering the VREQ application and de minimis limit in conjunction.

We note that the Bank sets out that it "does not expect that it is likely to give a permission where the firm has not also applied for an appropriate de minimis limit (VREQ)". We would suggest to make it a requirement that a firm applies for de minimis limit before the Bank uses its permissions power to modify or waive rules during mobilisation. This is to ensure that firms that benefit from reduced requirements do not operate at a scale where their operations within modified requirements may affect the safety and soundness of their users.

Do you have any comments on the Bank's proposed approach to using its permissions power to give permission to modify or waive certain rules during mobilisation as set out in this CP and draft SoP?

We believe that to fully support the Bank's secondary innovation objective, both new and currently authorised CCPs should be able to benefit from the Bank's proposed approach.

Currently authorised CCPs may introduce new clearing services or new functionality with distinct risk profiles, such as new asset classes, forms of collateral, participant types, or risk models (e.g. digital assets, on chain processes). Such innovation can be regarded as functionally similar to a "mobilisation phase" in risk terms, even if within an existing legal entity, especially when these services expand to novel products and asset classes.

New services or functionality by existing CCPs would be supported by appropriate mitigants, comparable with those proposed for new CCPs. For example, this could include de minimis exposure or activity, concentration limits, or service-level risk segregation (e.g. separate financial resources and default management arrangements). These mitigants would enable innovation within existing CCPs while ensuring that risks remain contained and do not affect core clearing services.

Moreover, to ensure a level playing field, it is essential to provide consistency in regulatory treatment between new CCPs and existing CCPs undertaking comparable activities, with comparable level of risks.

The Bank should therefore extend the draft SoP to cover all CCPs, or to issue a separate SoP in future supporting innovation in currently authorised CCPs.² This would support a level playing field and encourage existing CCPs to explore new services and functionality, aligning with the Bank secondary innovation objective.

We also note that the CCP rulebook does not address specific features of DLT-native CCPs. If the framework is intended to accommodate such CCPs, the Bank should publish DLT-specific supervisory expectations as a condition of granting permissions, with additional specific governance requirements.

We note that the Bank sets out in the draft SoP that a prospective CCP should "be able to demonstrate that it can fully meet the unmodified version of any modified or waived rules by the end of the agreed mobilisation period". We believe this point is critical, such that the application should include a plan setting out how the prospective CCP would build up over the mobilisation period to meet the full rules.

² We are aware that in 2025 the Bank consulted on its approach to using its permissions power for all CCPs. However, the proposed test in that consultation appears to set a higher bar than the one proposed for use of the permissions power in the present consultation. The general test in the 2025 consultation is proposed as where rules are "unduly burdensome or do not achieve their purpose" and "whether giving the permission does not adversely affect advancement of the Bank's financial stability objective". The test in the present consultation is more flexible in taking into consideration a range of factors and with a forward-looking element (i.e. whether the CCP can meet the rules before the end of the mobilisation phase).

The permissions power should be used in a measured and targeted way, to avoid calling into question the UK's commitment to high international standards and to avoid level playing field concerns.

While we support the Bank's approach to using its permission power on certain requirements on risk management techniques, to foster innovation – such as the use of tokenized collateral – CCPs benefiting from these waivers should remain subject to high risk management standards. In that regard, we also think that there should be further restrictions on certain rules that the Bank would expect to modify or waive, which are listed under paragraph 2.5 of the draft SoP:

- On minimum capital requirements, we ask what the rationale for a fixed £1mm floor is, which is materially lower than the floor applying as part of the general rules. We are concerned that this might result in the capital being held not being “proportionate to the risk stemming from the activities of the CCP”, per rule 2.2. of the capital part,
- On skin in the game and second skin in the game requirements, we note that this mechanically increases risk to clearing members, such that there should be explicit constraints around how relevant rules may be modified or waived. Any waiver should be strictly time-limited, and the extent of the waiver should be tied to the de minimis limits. Where SITG is waived, the Bank should consider a corresponding reduction in clearing members' default fund contributions,
- On governance waivers, we note that governance requirements should actually be seen as even more critical for prospective CCPs, which are still building clearing and default management experience. At the minimum, there should be a requirement that at least one independent director with demonstrated CCP experience be appointed from the start of the mobilisation period. CCPs should also be required to establish a clearing member advisory committee from the start, with formal consultation rights on models, collateral, default management, VREQs and de minimis limits and permission variations.

We note that under paragraph 2.6, the Bank refers to rules outside of the CCP rulebook that will be relevant to a prospective CCP, such as the IOREP rules on Operational Incident Reporting. It is not clear whether the Bank would envisage to waive or modify these rules. We believe that such rules should not be modified: clearing members need to be informed of incidents, as it is a key input in their CCP risk management.

Do you have any comments on the mobilisation application process or form, including the section for voluntary requirements (VREQ application form) sought under s55L(5) of FSMA, as set out in the Appendix of the draft SoP?

We do not have any comments.

Do you have any other comments on the proposals set out in this CP or the draft SoP?

We ask how the approach to CCPs in mobilisation stage interacts with the Digital Securities Sandbox (DSS). We would welcome some clarity on how the two regimes interact, including

whether firms may be in part of the two regimes at the same time, and if so, which rules take precedence.

The Bank could also commit to publishing an assessment of the effectiveness of its final approach in supporting innovation, once there has been sufficient practical experience to draw conclusions. This would enable the Bank and the industry to be able to learn lessons from this novel regulatory approach to UK CCPs.

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