

<b>Title:</b> THE CENTRAL COUNTERPARTIES (EQUIVALENCE) (INDIA) (RESERVE BANK OF INDIA) REGULATIONS 2023  <b>S.I. No:</b> 2023/599  <b>Other departments or agencies:</b> Bank of England  <b>Contact for enquiries:</b> Josh.Lazarus@hmtreasury.gov.uk	<b>De minimis assessment</b>
	<b>Date:</b> 15/05/2023
	<b>Type of regulation:</b> Domestic
	<b>Date measure comes into force:</b> 28 June 2023
<b>Cost of Preferred (or more likely) Option</b>  <b>No additional cost on business</b>	<b>Net cost EANDCB business per year</b>  <b>No additional cost</b>

**1. What is the problem under consideration? Why is government intervention necessary?** (Maximum 5 lines)

Central counterparties (CCPs) are used by firms to reduce certain risks that arise when trading on financial markets, such as those for derivatives and equities. They sit between the buyers and sellers of financial contracts, providing assurance that the obligations of those contracts will be fulfilled. CCPs have played a vital role in making markets safer following the 2008 financial crisis, when requirements were introduced for many more transactions to be cleared through a CCP. CCPs serve a global market, and UK firms will use overseas CCPs to access specific products, or for reasons of liquidity, cost, or assurance.

The equivalence decision made in this instrument satisfies a precondition for the Bank of England recognising CCPs that are authorised and designated as financial market infrastructure (FMI) by the Reserve Bank of India (RBI). If granted, recognition would provide an alternative, more stable, basis for these CCPs to provide services to UK businesses, compared to the current basis, which is a temporary regime established to allow for continuity when the UK left the European Union (EU).

*More detailed background*

When the UK left the EU, HM Treasury established in the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (the TRR Regulations), a Temporary Recognition Regime (TRR) enabling overseas CCPs to continue their activities in the UK for a three-year period after the end of the EU exit Transition Period (TP). HMT subsequently extended the TRR so that it will expire at the end of 2024 in order to provide more time for equivalence and recognition assessments to be completed for CCPs within the TRR. The TRR Regulations also provided for a “run off period” of up to 1 year for firms which leave the TRR in certain circumstances. During a firm’s run off period, it can continue to provide services to UK businesses. The Government has included provision in the Financial Services and Markets Bill that is currently before Parliament that would enable the Bank of England to extend a firm’s run off period to up to 3 years and 6 months.

Under Article 25(6) of the European Market Infrastructure Regulation as retained EU law (UK EMIR), HM Treasury has the power to assess overseas jurisdictions to determine whether they

have a legal and supervisory framework for CCPs which is equivalent to the United Kingdom's framework. The Bank of England can provide advice to HM Treasury in respect of this decision. This instrument contains HM Treasury's decision that the regulatory framework that applies to CCPs authorised and designated as an FMI by the RBI is equivalent to the United Kingdom's framework.

Article 25(2) of UK EMIR sets out certain conditions that must be met before the Bank can recognise overseas CCPs, including that HM Treasury has made an equivalence decision under Article 25(6). This instrument therefore satisfies one of the preconditions that must be met before the Bank can grant recognition to these CCPs.

Recognition by the Bank, if granted, would then provide UK clearing members and trading venues with an alternative, more stable mechanism for accessing the clearing services of these CCPs, beyond the TRR and its run-off. Currently, the only CCP which the RBI has designated an FMI is the Clearing Corporation of India Ltd (CCIL), which is currently within the run-off regime.

## **2. What are the policy objectives and the intended effects? (Maximum 5 lines)**

HM Treasury is satisfied that the legal and supervisory framework of the RBI's regime, for CCPs that the RBI has designated as an FMI, meets equivalent outcomes to the ones provided in the UK's corresponding regime in UK EMIR. This decision follows advice from the Bank of England which covers CCPs authorised and designated an FMI by the RBI. HM Treasury is therefore making regulations under Article 25(6) UK EMIR specifying that the legal and supervisory framework of the RBI's regime, in relation to CCPs that the RBI has designated a FMI, meets the relevant criteria to be found equivalent.

This equivalence decision will fulfil one of the preconditions that is necessary for the Bank of England to make a recognition decision for CCPs designated an FMI by the RBI. Any such recognition decision would then allow UK firms to continue to use the services of these CCPs on a non time-limited basis.

## **3. What policy options have been considered, including any alternatives to regulation?**

**Please justify preferred option (Maximum 5 lines)**

In order for the Bank of England to make recognition decisions for foreign CCPs, under UK EMIR HM Treasury must first have made an equivalence decision in relation to that jurisdiction. There is no alternative to legislation to satisfy this pre-condition. Therefore, no other policy options have been considered aside from doing nothing.

Doing nothing would cut off the possibility of UK firms having a stable, long-term way to access CCPs designated a FMI by the RBI. As such, given HM Treasury's conclusion that the regulatory framework for these CCPs is equivalent to the UK's framework, it was not considered a viable option.

## **4. Please justify why the net impacts (i.e. net costs or benefits) to business will be less than £5 million a year.**

This SI will not impose any significant additional requirements or administrative burdens on UK business. This is because the equivalence decision does not directly affect firms. Instead, it fulfils one of the preconditions that is necessary for the Bank of England to make individual recognition decisions for overseas CCPs. It is a potential recognition decision for CCPs which have been

designated a FMI by the RBI which would provide a long-term basis for UK businesses and trading venues to continue to use their clearing services. The Bank is responsible for recognition decisions. Recognition will not impose any additional requirements or administrative burdens on UK businesses.

**5. Please confirm whether your measure could be subject to call-in by BRE under the following criteria. If yes, please provide a justification of why a full impact assessment is not appropriate:**

**a) Significant distributional impacts (such as significant transfers between different businesses or sectors)**

**No**

**b) Disproportionate burdens on small businesses**

**No.** This SI itself does not change or create disproportionate burdens on small businesses. This is because HM Treasury's equivalence decision does not directly affect firms. Instead, it fulfils one of the preconditions that is necessary for the Bank of England to make individual recognition decisions for CCPs authorised and designated as an FMI by the RBI.

**c) Significant gross effects despite small net impacts**

**No**

**d) Significant wider social, environmental, financial or economic impacts**

**No**

**e) Significant novel or contentious elements**

**No**

Sign-off for de minimis assessment: SCS

***I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

**SCS of Financial Services Group**

Signed: John O'Regan

**SCS of Better Regulation Unit**

Signed: Linda Timson

Sign-off for de minimis assessment: Economic Secretary to the Treasury & City Minister

***I have read the de minimis assessment and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: **Andrew Griffith MP**

Date: 02/06/2023