

## Response to the Bank of England Consultation Paper

### *The Bank of England's power to direct a central counterparty to address impediments to resolvability*

#### **Executive summary**

The International Swaps and Derivatives Association (ISDA) and the Futures Industry Association (FIA) (collectively, the Associations) appreciate the opportunity to provide a response to the Bank of England's Consultation Paper "The Bank of England's power to direct a central counterparty to address impediments to resolvability".<sup>1</sup> We have carefully reviewed the proposed statement of policy, outlined in the consultation paper, regarding the BoE's proposed approach to exercising its power under paragraph 2, Schedule 11 to the Financial Services and Markets Act 2023 to direct a central counterparty (CCP) to address impediments to effective resolution.

We provide comments in relation to the BoE's proposed approach to exercising the power of direction and also in relation to the BoE's approach to resolvability assessments, which, we understand, will be out for consultation at a later stage.

We would welcome the publication by the BoE of an "approach to CCP resolution" document<sup>2</sup>, which we believe to be the right document to provide context by including all information related to the BoE's approach to using its various CCP resolution powers.

This response covers the positions of our members on the buy-side and sell-side. The paper does not reflect the views of many CCPs, and many of the CCPs are in disagreement with the views.

#### **Detailed commentary**

[Question 1: Do respondents have any views on the process for the Bank's use of its power to direct a CCP to address impediments to resolvability?](#)

The proposed statement of policy in the consultation paper provides valuable details on the BoE's approach to exercising its power under paragraph 2 of Schedule 11 of the Financial Services and Markets (FSM) Act 2023, which allows the BoE to direct a CCP to address impediments to resolvability.

We appreciate the BoE's outlined process for engaging with the relevant CCP before exercising this power. However, we would welcome additional information on how the BoE plans to consult and inform the wider clearing ecosystem, including the CCP's clearing members and clients, who may also be affected by these actions.

We also welcome the clear description of the five objectives the BoE would follow when exercising this power. In particular, we note that Objective 2 focuses on enhancing "public confidence in the UK financial system". Given the global systemic importance of UK CCPs, we believe it would be beneficial for the BoE to provide further public guidance on its approach to exercising this power in a way that

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<sup>1</sup> [The Bank of England's power to direct a central counterparty to address impediments to resolvability | Bank of England](#)

<sup>2</sup> We understand that the BoE intends to publish such document, as noted in the executive summary of its updated '[Purple Book](#)', published in December 2023.

maintains public confidence in the UK financial system, including public confidence from third-country market participants.

Such additional guidance would offer reassurance to third-country market participants and authorities, demonstrating that cross-border clearing at UK CCPs does not pose greater financial stability or systemic risk compared to clearing at the relevant third-country CCPs. In that regard, we suggest the BoE explicitly outlines how it would consider the impact of the exercise of this power on the markets served by the relevant CCPs.

We appreciate that the BoE provides some illustrative examples of scenarios in which it may use its power of direction. Our understanding is that any use of this power would be preceded by a resolvability assessment. To further understand the BoE's approach to using this power, we look forward to reviewing the BoE's policy approach to resolvability assessments. We note that under paragraph 4.5 of the CP, the BoE explains that it will set out in due course how "it intends to assess individual CCP's resolvability, and the resolvability outcomes it deems necessary to support resolution, which may inform the Bank's use of the power in future".

In that regard, we encourage the BoE to consider the extent to which the outcomes of these assessment may be communicated to the broader public, as is currently the case for banks' resolvability assessments performed by the BoE<sup>3</sup>. We believe such transparency on CCPs' resolvability assessments would be particularly valued by clearing participants.

**Question 2: Do respondents have any views on the timing for the Bank's use of its power to direct a CCP to address impediments to resolvability?**

We appreciate the clarity provided by the BoE regarding the typical timeline it would impose on the CCP when exercising this power, considering the nature of the measures and the level of urgency. We do not have any further comments on this point.

**Question 3: Do respondents have any views on the respective timescales for engagement once the Bank identifies any impediment to resolvability or uses its power to direct a CCP to address them?**

Regarding engagement timescales once the BoE identifies any impediments to resolvability, or uses its power of direction, we suggest specifying when and how the BoE, as resolution authority, would consider engaging with third-country authorities and the college, as well as with the Prudential Regulation Authority and the Financial Conduct Authority. We recommend clarifying how the BoE would consider the impact of these remedial measures on the CCP's clearing members and clients. The timescales around the use of this power should also consider whether and how the BoE would intend to make its decision to use this power public, and / or how the CCPs' users would be kept informed of the measures being taken.

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<sup>3</sup> [Resolvability assessment of major UK banks: 2024 | Bank of England](#)

### **About FIA**

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. Our membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. Our mission: To support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct. Information about FIA and its activities is available on the Association's website: [www.fia.org](http://www.fia.org).

### **About ISDA**

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: [www.isda.org](http://www.isda.org). Follow us on Twitter, LinkedIn, Facebook and YouTube.