



LME Group recently sent the below correspondence to our EEA Clearing Members in October 2021

To: EEA Clearing Members

We are contacting you in relation to LME Clear's current status as a recognised third country CCP and the time limitations that are currently associated with that status.

Background

As you will be aware, LME Clear is recognised by ESMA as a tier 1 third country CCP and is therefore able to provide clearing services to all of its members, including those incorporated in the EEA.

LME Clear's recognition remains valid for as long as the regulatory regime governing UK CCPs is considered "equivalent" by the European Commission, to that in place in the EU. The equivalence decision granted by the European Commission in September 2020 took effect on January 1 2021 and will last until 30 June 2022. Accordingly, the recognition in place for LME Clear (and the other UK CCPs) is also expected to expire on this date.

This means that in the absence of an extension to, or a renewal of, the existing equivalence decision, **LME Clear may be prohibited from having EEA-incorporated clearing members from 11pm (BST) on 30 June 2022 until such time as it again becomes a recognised CCP.**

Contingency Planning

Given that we have been forewarned of the position, it is important that we take swift steps to mitigate the potential implications of this and ensure that alternative arrangements can be put in place in good time for June 2022.

There are a number of alternative options available, all of which we have discussed with you previously when this issue has been relevant.

- One option may be to resign your clearing membership and instead become a category 4 member of the LME and continue your trading activities whilst clearing through another non-EEA LME member.
- Alternatively, we would welcome an application for LME/LME Clear membership from a non-EEA group entity. This entity could continue to provide clearing services without any interruption.
- A third option may be to resign your LME Clear membership and trade and clear through an alternative member.

Should it be necessary we will, of course, work closely with you to ensure the smooth implementation of such plans as well as an efficient transfer, or closing out, of existing positions in order to minimise any potential disruption. We will also set out a timetable and procedure under the worst case scenario for closing out positions of EEA-incorporated members who have not moved their positions in good time.

Advocacy

Whilst we acknowledge the concerns raised by the Commission around clearing of European instruments in a third country jurisdiction, LME Clear nonetheless believes that the regulatory standards in place in the UK remain robust and sufficiently aligned with those in place in the EU to provide the Commission with comfort around the risk of such clearing activity. In addition, EMIR 2.2 offers European regulatory



authorities significantly increased powers to supervise CCPs in the UK (and other third country jurisdictions) to ensure that they have full transparency and certainty over the activities of such CCPs and their interaction with European financial stability. Further, LME Clear remains overwhelmingly a USD-market and therefore unlikely to impact the financial stability of the EU (or one or more member states) as per stated criteria.

LME Clear continues to engage with the European regulatory authorities wherever possible in order to best understand the steps we can take to ensure that the decision around clearing equivalence can be renewed. In particular, we acknowledge the importance of transparency and evidencing compliance with the obligations that apply under both UK EMIR and EU EMIR.

However, as a UK incorporated institution based in London and supervised by the Bank of England, LME Clear does not have as close and continuous access to EU authorities as when the UK was a part of the EU. We anticipate, therefore, that it may be beneficial to ensure you continue your own bilateral engagement on this as a topic with the EU authorities.

Next steps

Whilst we hope that this situation will be resolved swiftly and positively, we nonetheless believe it is prudent to ensure we are well prepared for all potential outcomes. We therefore propose an initial call over the next couple of weeks to discuss the current situation and to assess how we can mutually manage the changing situation. We will be in touch again shortly in order to arrange a mutually convenient time. In the meantime please do not hesitate to contact us with any questions or concerns.