



LME Brexit factsheet

January 2021

In view of the global nature of its market the LME and LME Clear remain confident that London will continue to be the most appropriate location for this market. This is a belief that we have consistently reiterated to, and had reinforced by, our members, market participants and our broader stakeholders.

STEPS TAKEN

LME: Third Country trading venue licences

The LME has received a licence or an exemption in those EEA jurisdictions where it has been advised that members will require access to its trading systems.

Germany (BaFin)	Netherlands (AFM)	France (AMF)	Ireland (CBI)
The LME has been granted a licence by BaFin under s.102 German Securities Trading Act and will therefore be able to continue providing market access to German domiciled members at the end of the transition period.	The LME has been granted dispensation under article 5:26(3) of the Dutch Act on Financial Supervision and will therefore be able to continue providing market access to members domiciled in the Netherlands at the end of the transition period.	The LME is not required to apply for a third country trading venue licence in France.	The LME is not required to apply for a third country trading venue licence in Ireland.

The LME has also confirmed no licences are required for Cyprus and Norway. If you anticipate applying for membership of the LME from an entity incorporated in any other EEA jurisdiction, please advise the LME of this as soon as possible.

LME: classification of LME contracts

Prior to the end of the transition period, LME contracts were classified as exchange traded derivatives (“ETD”) for the purpose of EU MiFID II and EU EMIR¹. As the LME has not been deemed to be an “equivalent” trading venue under EU law, any derivative contract executed on the LME from 1 January 2021 onwards, will be considered as OTC from an EU perspective. Any derivative contract executed on the LME before this date, will continue to be considered as ETD from an EU perspective.

¹ Following the end of the transition period, there will be two versions of EMIR – a version that is governed by the European supervisory authorities ((EU) EMIR) and a second version governed by the UK regulatory authorities ((UK) EMIR).



The classification of LME contracts as OTC may introduce additional regulatory obligations for EEA counterparties and UK counterparties trading with EEA counterparties. These may include additional reporting obligations and could contribute to the mandatory clearing threshold for entities currently designated as NFC-. We therefore encourage all members to consider how the reclassification of LME contracts for the purpose of EU Law could impact their business, and that of their clients.

From a UK law perspective, the LME's contracts will continue to be classified as ETDs.

LME Clear

LME Clear is able to continue providing clearing services to EEA-incorporated members as it has been recognised by ESMA as a Tier 1 third country CCP.

ACCESS TO THE LME AND LME CLEAR BY EEA MEMBERS

As LME Clear is recognised as third country CCP, it will be able to continue providing clearing services to its EEA members.

Access to the LME by firms in the EEA is dependent on the individual rules of member states. Therefore any members looking to access LME systems from a member state other than those highlighted above, should engage with the LME as soon as possible to ensure any associated regulatory obligations can be managed in a timely manner.

ACCESS TO THE LME AND LME CLEAR BY MEMBERS CURRENTLY OUTSIDE THE UK AND EEA

The UK's regime permitting access to the LME from non-EU/non-UK countries has not changed and therefore firms in such jurisdictions should be able to continue trading and clearing in the same manner as they did before the end of the transition period.

ACCESS TO EEA CLIENTS BY UK MEMBERS

We understand some UK-incorporated members are establishing an EEA-presence in order to service EEA clients. Under the LME Rules, indirect clearing as contemplated in MiFIR is possible on the LME market. This can be achieved either by the EEA entity applying for category 4 membership or through the issuance of back-to-back contracts by the EEA entity on the terms it has in place with the relevant client. For more details please see the information provided on our Brexit webpage or click [here](#) .

Client contracts under LME Rules

Where a client contract is issued by a category 4 member to its client, and that category 4 member acts as clearing broker to the client, this is likely to fall into the MiFIR definition of indirect clearing, as the end client is the 'client of a client' of a clearing member.

Any entity wishing to become a category 4 member must comply with the B Share requirement and must ensure that the LME has a licence to provide access to its trading systems in the relevant jurisdiction.



Indirect clearing

It is possible for clients of an LME member to enter into a back-to-back exchange traded derivative contract with its client under terms of business with that client. This contract is not a client contract under the LME rules, but the arrangement may qualify as an indirect clearing arrangement for the purposes of MiFIR.

The benefit of such an arrangement is that there would be no B Share requirement and members could choose any EEA jurisdiction to establish their EEA entity, irrespective of whether the LME has a licence to provide access there.

Members must conduct their own due diligence on what indirect clearing arrangements they have in place, having regard to the LME Rules, their contractual relationship with the client (including any agency arrangements it may have in place with such client) and regulation applicable to the member and its clients.

The LME has changed its Rulebook in order to clarify the treatment of indirectly cleared contracts which are issued under this type of arrangement.

Transaction reporting

The LME is required to submit to the FCA transaction reports for any firm that transacts on its market and which is not a UK-MiFID authorised investment firm. This will include firms authorised under EU MiFID². However, any firms which execute trades on the LME through a UK authorised branch will be required to submit their own transaction reports in relation to those trades.

² There are now two versions of MiFID – a version that is governed by the European supervisory authorities ((EU) MiFID) and a second version governed by the UK regulatory authorities ((UK) MiFID).

