

## PUBLIC STATEMENT

### ESMA to recognise three UK CCPs from 1 January 2021

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has today announced that the three central counterparties (CCPs) established in the United Kingdom (UK) – ICE Clear Europe Limited, LCH Limited, and LME Clear Limited – will be recognised as third country CCPs (TC-CCPs) eligible to provide their services in the EU, after the end of the transition period following the withdrawal of the UK from the EU on 31 December 2020.

On 21 September 2020, the Delegated Acts on tiering, comparable compliance and fees under Regulation (EU) 648/2012 (EMIR), were published in the Official Journal. The Delegated Acts set out the new regulatory and supervisory regime for third-country CCPs (TC-CCPs), including the details for conducting the tiering assessment of TC-CCPs to determine the systemic importance for the EU of a TC-CCP which has applied for recognition under EMIR. ESMA needs to conduct this determination before a TC-CCP can be recognised in accordance with the applicable requirements.

The European Commission (EC) also adopted on 21 September, in the context of the end of the transition period under the Withdrawal Agreement between the EU and the UK<sup>1</sup>, an equivalence decision determining for a limited period of time, that the regulatory and supervisory framework applicable to CCPs established in the UK is equivalent.

The adoption of the equivalence decision is the first of several conditions to be met for recognising a TC-CCP under EMIR, including the establishment of cooperation arrangements with the home supervisor. In this respect, ESMA has agreed with the Bank of England a new Memorandum of Understanding (MoU) establishing the necessary cooperation arrangements for the recognition and supervision of UK CCPs under EMIR, and taking into account the specific aspects regarding cooperation arrangements outlined in the equivalence decision

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<sup>1</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 384 I, 12.11.2019, p. 1).

adopted by the EC.

The three UK CCPs have submitted to ESMA their applications to be recognised as TC-CCPs under EMIR and, based on these, ESMA has conducted the tiering and recognition assessments, including consulting the relevant authorities in accordance with EMIR.

ESMA has adopted the following tiering decisions:

- LME Clear Limited has been assessed as a Tier 1 CCP;
- ICE Clear Limited as a Tier 2 CCP; and
- LCH Limited as a Tier 2 CCP.

Furthermore, after considering the conditions for recognition under Article 25 of EMIR, ESMA adopted decisions to recognise the three UK CCPs as TC-CCPs under EMIR. In line with the equivalence decision, the recognition decisions will only take effect on the day following the end of the transition period and continue to apply while the equivalence decision remains in force, which is for 18 months until 30 June 2022.

As outlined in the equivalence decision, the 18 months provided for by the time-limited decision gives ESMA the opportunity to conduct a comprehensive review of the systemic importance of UK CCPs and their clearing services or activities to the Union and take any appropriate measures to address financial stability risks, including a fully reasoned assessment according to Article 25(2c) to examine whether a TC-CCP or some of its clearing services are of such substantial systemic importance that this CCP should not be recognised to provide certain clearing services or activities. ESMA undertakes to conduct such a comprehensive review in due time.



## Notes for editors

1. The new recognition regime established in EMIR has introduced a number of additional responsibilities for ESMA with the objective to ensure that an effective and proportionate supervision is in place for all CCPs, depending on whether they are systemically important for the Union or not. ESMA is ready to undertake this role with regards to UK CCPs following the end of the transition period, and to cooperate with the Bank of England in conducting it on the basis of EMIR and in line with the agreed MoU.
2. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
  - ii. completing a single rulebook for EU financial markets;
  - iii. promoting supervisory convergence; and
  - iv. directly supervising specific financial entities.
3. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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