

REACH UPDATE

July 2026

This document has been produced by the London Bullion Market Association (LBMA), representing the wholesale precious metals market, providing an updated position paper on the application of REACH in respect of LBMA Good Delivery Bars, kilo bars and other smaller bars.

The purpose of this document is to articulate the argument of the LBMA that Gold kilobars and other smaller bars meeting the specification endorsed by the LBMA, which are imported into the UK and EEA for investment purposes, are articles not containing substances with intended release, therefore ought to be excluded from registration obligations involving the submission of information dossiers under REACH and aligning with the treatment of REACH for LBMA Good Delivery Bars.

Introduction

The REACH Regulation ensures a high level of protection of human health and the environment. The Regulation also aims to ensure the free circulation of substances on the internal market while enhancing competitiveness and innovation¹. The provisions deal with substances, used on their own, in mixtures or in articles; such substances fall into the scope of REACH in three processes: manufacturing, placing on the market, and use².

This paper will explore the provisions of REACH in relation to their effect on importers of *LBMA Good Delivery Bars*, Gold kilobars and other smaller bars (hereafter referred to as Gold Investment Bars) when used as a physical asset for investment purposes and held in a vault provided by financial institutions. To qualify as a Gold kilobar under the LBMA endorsed specification, the Bar must meet the prescribed criteria.

While we understand that the UK Health and Safety Executive (HSE) cannot endorse or reject the arguments set out in this paper, an observation on the position outlined below of importers potentially subject to REACH requirements would be highly appreciated.

For the avoidance of doubt, this paper sets out LBMA's analysis of the application of REACH to Gold Investment Bars. It is intended to assist discussions with regulators and market participants and does not constitute legal advice or regulatory guidance. Responsibility for assessing and complying with applicable REACH obligations remains with each importer or producer, having regard to its own circumstances.

Background

In March 2010, the LBMA and the Precious Metals Consortium sent a position paper to the HSE lobbying for Good Delivery Gold Bars imported into the EEA for investment purposes to be recognised as articles containing no substances with intended release. In March 2018, the LBMA and the London Platinum and Palladium Market sent a second paper lobbying for Good Delivery Platinum and Palladium Plates and Ingots imported into the EEA for investment purposes to be recognised as articles containing no substances with intended release. In September 2018, LBMA sent an additional paper lobbying for Good Delivery Silver Bars imported into the EEA for investment purposes to be recognised as articles containing no substances with intended release. The papers provided that importers of Good Delivery Bars should be exempt from

¹ Article 1(1), REACH

² Article 1(2), REACH

registration obligations under REACH. The papers also highlighted that importers ought to exclude Good Delivery Bars when calculating imported tonnage quantities.

Both responses from the HSE's REACH Helpdesk were received positively. HSE consistently commented that the need for specific markings appear to make a "good case for [Good Delivery Gold Bars/Platinum and Palladium Plates and Ingots] being articles". This argument was strengthened by the "need for a unique identifier" and "surface finishing aspects". HSE further suggested that were importers to proceed on the basis that Good Delivery Gold Bars and Platinum and Palladium Plates and Ingots are to be classed as articles not containing substances intended for release, it would be important to consider by whom this should be challenged. If relevant sectors across the EEA collectively treated Good Delivery Gold Bars and Platinum and Palladium Plates and Ingots as articles, such a position would be unlikely to be tested.

Following this response, the industry considered that there was a reasonable basis for Good Delivery Bars to be excluded from registration obligations.

Given Brexit, and discussions around the reviews of REACH both in the EU and UK, LBMA felt it appropriate to contact the HSE to clarify the current position in respect of certain bars. Following which it was clear that nothing had changed in HSE's view that the previous position statements of LBMA in that Good Delivery specification appeared to make a good case for Gold Investment Bars, to them being determined as articles.

Our Position

In this paper, and our 2025 outreach to HSE we set out our arguments as to why Gold Investment Bars should be excluded from registration under REACH. This will firstly involve demonstrating that a Gold Investment Bar is an article, rather than a substance. This is because its shape, surface and design, rather than its chemical composition, gives the bar its function. Secondly, we will set out that importers of Gold Investment Bars ought to be treated as excluded from registration under REACH. This is because the articles do not contain substances intended for release, therefore cannot fulfil the relevant conditions.

Determination of Substance or Article

Under REACH, a **substance** is a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition³.

An **article** is an object which during production is given a special shape, surface or design which determines its *function* to a greater degree than its chemical composition⁴.

The European Chemicals Agency Guidance on Requirements for Substances in Articles⁵ (the Guidance) provides some clarification on the terms italicised in the above definition of an article, explored below:

i. Shape, surface or design

The Guidance advises that the shape, surface or design of an object represents its physical form rather than its chemical composition. Shape means the three-dimensional form of an object, like

³ Article 3(1), REACH

⁴ Article 3(3), REACH

⁵ Version 4.0, June 2017

depth, width and height. Surface means the outermost layer of an object. Design means the arrangement or combination of the “elements of design” in such a way as to best accomplish a particular purpose of the object.

Taking the Guidance into consideration, the shape, surface and design of a Gold Investment Bar represent its form more so than its chemical composition. While Gold materials used as feedstock for industrial purposes are represented by their chemical composition (and therefore are classed as a substance under REACH), Gold Investment Bars are represented by their shape, surface and design.

To be accepted as an LBMA Loco London Gold Investment Bars Good Delivery Bar or Gold kilobar, all bars must comply with rules which have been described in previous guidance notes.

ii. Function

Previously the Guidance advised that the term function is to mean the intended purpose for which an object is to be used. The intended purpose a Gold Investment Bar is to be used as a physical asset which financial institutions can hold in a vault. The Gold Investment Bar’s shape, surface and design determines this function because, without its identifiable markings and smooth appearance, it loses its utility and value as a physical asset.

HSE advised that the status of LBMA Gold and Silver bars or other precious metal investment products as either substances or articles is for the duty holder to decide. If they decide that they are articles and there is no intentional release of a substance, then there are no registration duties. HSE emphasized that both the composition and the form are important and that the arguments previously (LBMA papers of 2010 and 2018) appear to make a good case for them being articles. HSE, whilst not endorsing the position, they agreed the papers had merits and could not see sound grounds upon which to make a challenge to this conclusion.

The HSE did warn that if, for example, if a kilobar is simply shaped for convenience and supplied to a goldsmith to make jewellery then in this instance it would be the chemical composition that is important and not the dimensions or features of the bar.

Ultimately, it is for the importers or producers to decide whether the underlying is a substance or article.

iii. Conclusion

As suggested, gold ought to be regarded as a substance when the Specification is not met, for example when used as feedstock for industrial use. This is because its function is determined primarily by its chemical composition rather than its shape, surface or design. Conversely, Gold Investment Bars ought to be regarded as an article. Their unique and identifiable markings and appearance, which qualify them as Gold Investment Bars, determine their function as a physical asset more than their chemical composition. The importer, to which REACH would be potentially applicable, places the value of Gold Investment Bars in their purpose as a physical asset, which in turn is determined by their surface, shape and design.

On the basis of the points outlined in this section, we continue to conclude that Gold Investment Bars ought to be regarded as an article, unless the shape is for convenience to be melted into jewellery, in which case the importer or producer would have a position to assess.

Obligation to Register

Importers of articles are required to register substances contained in those articles if two conditions are met⁶:

- a) The substance is present in articles in quantities totalling over one tonne per year; and
- b) The substance is intended to be released under normal or reasonably foreseeable conditions of use.

On the basis that a Gold Investment Bar may be regarded as an article, such an article cannot fulfil either condition. Due to the shape, surface and design of the Gold Investment Bars as well as their function, no substance is intended to be physically separated from the bar. This means the quantity threshold cannot be met. This therefore suggests that Gold Investment Bars do not fulfil the criteria for the obligation for importers to register substances in articles.

Conclusion

On the basis of the analysis set out above, LBMA considers that there is a strong legal basis for concluding that Gold Investment Bars meeting the LBMA Good Delivery and endorsed kilobar specifications are properly characterised as articles for the purposes of the REACH Regulation. In LBMA's view, such articles are not intended to release substances under normal or reasonably foreseeable conditions of use and therefore should not give rise to a registration obligation under REACH.

LBMA recognises that responsibility for determining compliance with REACH rests with the relevant importer or producer, having regard to its own particular circumstances.

⁶ Article 7.1, REACH