



# LME Red Flag Assessment Template

Reporting template for LME-listed Brands, version 2

Revision date: December 2022

## LME RED FLAG ASSESSMENT TEMPLATE

### Introduction

- This document and accompanying Red Flag Assessment (“RFA”) Workbook constitute the LME RFA Template (the “template”) for the purposes of the LME Policy on Responsible Sourcing of LME-Listed Brands (the “Policy”). This template is only required for Brands following the Audited LME RFA Track (Track B) and the Published LME RFA Track (Track C). Capitalised terms not defined herein have the meaning ascribed to them in the Policy.
- This template is based on the “Supplement on Tin, Tantalum and Tungsten” of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Third Edition. References to OECD Guidance in the context of this template should be interpreted accordingly.
- The purpose of the OECD Guidance is to help companies respect human rights and avoid contributing to conflict through their sourcing decisions, including the choice of their suppliers<sup>1</sup>.
- Producers should consult the Policy for information on Reporting Periods, submission deadlines and other contextual information.
- Please submitted all relevant documents in English, this includes the RFA, RFA workbook, and any supplemental documents the LME should consider as part of the submission.
- The RFA Workbook is available here:



Microsoft Excel  
Worksheet

#### Context:

In reviewing the RFAs from the first year of implementation, the LME received comments regarding formatting and ease of submission. The LME has addressed a few of these as noted below:

- The LME has taken the many sub-questions from the original Question 2 and broken them out into stand-alone questions.
- The LME has moved the country-related data into a separate worksheet in a tabular format to improve consistency of responses, clarity of expectations, and ease of response.
- The LME has added references to the OECD Guidance page numbers so that Producers may easily refer back to the original document.

#### Question:

6) Are there other formatting changes you would suggest to make the template easier for Producers to complete?

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<sup>1</sup> OECD Guidance, page 12



Section 1. BRAND INFORMATION	
LME Brand Producer name <sup>2</sup>	
LME Brand name(s) <sup>2,3</sup>	
Reporting Period start date (DD/MM/YYYY)	
Reporting Period end date (DD/MM/YYYY)	
Date of submission (DD/MM/YYYY)	
Address of Brand producing site	
Website of Brand Producer	
Name of person submitting RFA	
Job title of person submitting RFA	
Phone number	
Email address	

<sup>2</sup> This may be found on the list of LME Approved Brands: <https://www.lme.com/en/physical-services/brands/approved-brands>

<sup>3</sup> In the majority of cases, each Brand will require a unique RFA. However, if multiple Brands are produced by the same Producer, and the responses to the RFA questions are identical for all said Brands, one RFA may be submitted for all Brands.



## Section 2. COMPANY MANAGEMENT SYSTEMS

- a. Describe the Producer's supply chain due diligence policy. The policy should incorporate the standards against which due diligence is to be conducted, consistent with the model policy contained in Annex II of the OECD Guidance.<sup>4</sup>

Please provide a link or a copy where available.

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<sup>4</sup> OECD Guidance, page 20



b. Describe how this policy been communicated to suppliers, employees, and the public.<sup>5</sup>

c. Explain the management structure responsible for the Producer's due diligence, including who is directly responsible for implementing the supply chain due diligence policy.<sup>6</sup>

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<sup>5</sup> OECD Guidance, page 17

<sup>6</sup> OECD Guidance, page 17 and page 52



- d. Describe the system of controls and transparency over the mineral supply chain put in place by the Producer. This includes:
  - a. the type of information<sup>7</sup> the Producer collects from suppliers,
  - b. whether this information is required in commercial contracts with suppliers<sup>8</sup>
  - c. the format of the record-keeping of the Producer (such as paper-based, computerised, digital ledger technology, or part of an institutionalised mechanism)<sup>8</sup>, and
  - d. for how long this information is stored<sup>8</sup>.

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<sup>7</sup> OECD Guidance, page 38, which refers to the information expected on page 37

<sup>8</sup> OECD Guidance, page 38



e. Describe the data the management system has yielded this Reporting Period and how it has strengthened the company's due diligence efforts.<sup>9</sup>

f. Confirm that a company-level or industry-wide grievance mechanism has been established and provide evidence.<sup>10</sup>

Context:

The original Red Flag Assessment template did not explicitly request the demonstration of implementation of a grievance mechanism, but as this is part of Step 1 of the OECD Guidance, the LME is now providing clarification of the requirement

Question:

7) Do you believe it is appropriate for the LME to clarify the expectation of a grievance mechanism (either independent or as part of an industry programme) as expected by the OECD Guidance?

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<sup>9</sup> OECD Guidance, page 52

<sup>10</sup> OECD Guidance, page 17 with details on page 40



g. Describe the Producer's method for identifying Conflict-Affected and High-Risk Areas ("CAHRA").<sup>11</sup>

## Context:

The definition of a CAHRA is provided in the OECD Guidance, and specified by the Policy. The LME does not dictate a specific methodology for identifying CAHRAs and leaves this determination up to the Producer (albeit, as noted in the Policy, the LME did anticipate that some Producers may wish to use CAHRA lists provided by third parties, should those prove appropriate). However, as this is a key point in the Red Flag Assessment, the LME does believe the process the Producer uses to determine CAHRAs needs to be disclosed to build trust in the Track C process. In year one, the LME made these requests bilaterally to Producers should the information not be provided in the original submission; however, the LME is now proposing to clarify this requirement by including it in this revised template. Once Producers have provided their CAHRA methodology to the LME in the RFA, this information would be expected to be included in the public disclosure of the RFA as well, in line with the transparency timeline (including phased introduction) provided by the LME in the Policy

## Question:

8) Do you consider these changes appropriate? Why or why not?

<sup>11</sup> Though not directly referenced in the OECD Guidance, the LME requires this information to be disclosed as part of the transparency requirements for Track C. In line with the Policy, the LME expects that the definition of "conflict-affected and high-risk areas" will be as set out in the "Supplement on Gold" of the OECD Guidance page 66, save that (1) for Standards which have been alignment assessed prior to the introduction of this Policy, the definition of "conflict-affected and high-risk areas" may be as set out in the main section of the OECD Guidance, and (2) the LME may, in its absolute discretion (acting reasonably), recognise lists of conflict-affected and high-risk areas published by third parties and notify such lists to the market by Notice, following which notification Brands may choose to apply such lists when assessing Red Flags;





### Section 3. LOCATION OF MINERAL ORIGIN AND TRANSIT RED FLAG EVALUATION

Use the workbook to provide the following information:

- a. On the basis of the Producer's Company Management Systems for tracing the transit of materials from its operations and those of its suppliers, list all countries from which the minerals used for this Brand originated and transited through during the Reporting Period.
- b. Identify whether each of the countries listed in (a.) is a source for the Brand material or a country through which the material only transits.
- c. Specify the type of material being sourced or transited. This is optional to disclose and only requested to assist in answering the remaining questions.
- d. Classify each country's CAHRA status:
  - (i) A country of which no area falls into the CAHRA definition;
  - (ii) A country of which all areas fall into the CAHRA definition; or
  - (iii) A country of which some, but not all areas fall into the CAHRA definition. In this case, indicate whether the material is sourced from or transits through the CAHRA in the comment column.
- e. For each of the source countries identified, assess if the volume of mineral the Producer sourced during the Reporting Period is in keeping with the source country's known reserves and expected production levels. Provide the result of your assessment.
- f. For each of the countries identified, assess if this country known to transit materials from CAHRAs.
- g. For each of the source countries in (b.), assess the status of the supplier's Extractive Industry Transparency Initiative ("EITI") implementation following these steps<sup>12</sup>:
  - (i) State whether or not the country is an EITI-implementing country<sup>13</sup>;
  - (ii) If the supplier is located in an EITI-implementing country, identify if the supplier is in compliance with the EITI reporting requirements of that country. Provide links to the relevant company's submission for the purpose of EITI reporting, where such a disclosure does not reveal commercially sensitive information.
  - (iii) If the country is not an EITI-implementing country, identify if the supplier takes other steps to provide transparency on payments to governments and other matters in line with the aims of EITI. Provide link(s) to disclosures where available.

<sup>12</sup> The LME believes that financial crime and corruption risk represent important concerns for industry stakeholders. Accordingly, the LME is particularly keen to ensure that the principles of the EITI, as referenced on page 52 of the OECD Guidance, are embedded into global supply chains. As such, this template references the specific wording of the OECD Guidance in respect of EITI, but further requires that Producers explain broader disclosure on a per-country basis.

<sup>13</sup> The status of country's EITI implementation can be found here: <https://eiti.org/countries>



Context:

The original RFA required Producers to include an assessment of the EITI status of countries from which they source materials, through which they transit those materials, and for the Relevant Companies identified in Section 4. As EITI is only available for the mining phase of production, asking about implementation of EITI at the transit phase of the supply chain and for Relevant Companies caused confusion. The revised version only asks Producers to look for EITI implementation for each supplier's sources of material.

In addition, the original RFA included the point that if a supplier is not shown to be implementing EITI principles, this raises a Red Flag and following the LME's Policy, and would require a switch to Track A by the Producer. Upon review of the OECD Guidance, and recognising that implementing Track A for the Producer will not necessarily prompt the relevant supplier to provide EITI reporting, the LME is removing the question that identified a lack of EITI implementation at a supplier's site to be a Red Flag.

Finally, the LME is removing the requirement for Producers to look for EITI implementation for the Relevant Companies identified in Section 4, as many of these locations will not be mine sites and the leverage Producers have with these Relevant Companies is much less than their direct suppliers identified in Section 3.

Question:

9) Regarding EITI expectations, do you believe it is appropriate for the LME to (1) change the EITI disclosure requirements to specify that they are only for countries where minerals are sourced, not transit countries or locations of Relevant Companies and (2) remove the assumption that suppliers lacking EITI disclosures raise an OECD Red Flag?



## Section 4. SUPPLIER RED FLAG EVALUATION

The Producer is expected to identify all intermediaries, consolidators, or other actors upstream in their supply chain through their management system<sup>14</sup>. This includes but is not limited to: traders who provide minerals to the Producer or the Producer's suppliers; parent companies of the Producer or the Producer's suppliers; and companies that have a controlling interest in the Producer or Producer's suppliers ("Relevant Companies"). The Producer then must identify whether any of the "Relevant Companies" operate in or source from CAHRAs<sup>15</sup>.

If a "Relevant Company" is operating in or sourcing from a CAHRA, this triggers an OECD Supplier Red Flag. The Producer may lower this Red Flag by securing evidence that the origin or transit of the material entering their Brand feedstock was not sourced from the CAHRA that raised the OECD Supplier Red Flag. If this evidence is secured (and provided upon request) they may continue to use this template and follow the public disclosure requirements of the relevant Track. If no evidence is available, the Supplier Red Flag remains and the Producer will be referred to Track A for enhanced due diligence with the support of an assurance framework. The LME provides a more detailed guidance on this topic, available here.<sup>16</sup>

**Use the workbook to provide the following information:**

- a. Indicate where the "Relevant Companies" have operated in or sourced minerals during the Reporting Period. This is only required for operations relevant to the LME Brand mineral in question.
- b. Classify the locations provided in (a.) into either locations where no minerals are produced (such as headquarters, offices, or holding companies) or locations where minerals are produced.
- c. Classify each country's CAHRA status:
  - (i) A country of which no area falls into the CAHRA definition;
  - (ii) A country of which all areas fall into the CAHRA definition; or
  - (iii) A country of which some, but not all areas fall into the CAHRA definition. In this case, indicate whether the operations are located within the CAHRA in the comment column.
- d. If any countries are CAHRAs or contain some CAHRAs within them, provide confirmation that the producer has secured evidence that the origin or transit of the material entering their feedstock was not sourced from the CAHRA that raised the OECD Supplier Red Flag.

<sup>14</sup> OECD Guidance, page 34, which refers to the information expected to be collected by Producers on page 37

<sup>15</sup> The LME is aware that the OECD Guidance goes further on this point, including countries with limited reserves or production levels and countries where minerals from CAHRAs are known to transit, however, the LME considers these points to be adequately covered in Section 3.

<sup>16</sup> Link to LME Responsible Sourcing Guidance Handbook: (link to be added after consultation)



Context:

In reviewing the RFAs from the first year of implementation, the LME noted different interpretations of the Supplier Red Flags. The LME has made the modifications shown above to clarify expectations and increase consistency between Producer RFAs. This is to support fair treatment of all Producers.

Question:

10) Do you believe the changes to Section 4. Supplier Red Flags provide clarity to Producers on the expectations of them and clarity for when Supplier Red Flags are raised? If not, please provide other interpretations of the OECD Guidance Supplier Red Flags and explain why that interpretation is more appropriate in the circumstances.



## Section 5. RED FLAG ASSESSMENT

a. Is there any material in the direct supply chain of the mineral the Brand lists with the LME where the origin is unable to be determined?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b. Do any of the countries identified in Section 3 LOCATION OF MINERAL ORIGIN AND TRANSIT EVALUATION fall into the CAHRA areas identified in 3.d?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c. Do any of the source countries identified in Section 3 LOCATION OF MINERAL ORIGIN AND TRANSIT EVALUATION receive a quantity of material that is out of keeping with the source country's known reserves and expected production levels as answered in 3.e?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d. Do any of the countries identified in Section 3 LOCATION OF MINERAL ORIGIN AND TRANSIT EVALUATION fall into the list of countries known to transit materials from CAHRAs identified in 3.f?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e. Do any of the countries identified in Section 4. SUPPLIER RED FLAG EVALUATION fall into the CAHRA areas identified in 4.c without confirmation provided in 4.d?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f. Is the answer to any of Section 5.a – 5.e positive?  If yes, the LME Brand is considered to have raised an OECD Red Flag and must use Track A.	<input type="checkbox"/> Yes	<input type="checkbox"/> No



g. Does the Producer believe that the Red Flag Assessment should result in a different outcome than indicated in **Error! Reference source not found.**? If so, then a full explanation must be given.

Explanation:

☐ Yes      ☐ No



Additional comments:

