

To: All Members, Warehouse Companies and London Agents

Ref: 14/202 : A195 : W098

Date: 2 July 2014

Subject: **INFORMATION BARRIERS BETWEEN WAREHOUSE COMPANIES AND TRADING COMPANIES**

Summary

1 The LME has in place certain provisions and procedures to establish and enforce strict information barriers between Warehouse Companies that are in the same Group as, or otherwise have a Close Connection with, a Member, or which have a Close Connection with any company which enters into LME Contracts or trades metal that is deliverable against an LME Contract, whether or not they are a Member of the LME (known as a "**Related Warehouse Company**").

2 Notice 11/334: A326: W173 modified and restated the LME's requirements relating to information barriers; strengthening these in various respects, including by introducing a requirement for a Related Warehouse Company to engage a professional accountant (a "**Practitioner**") to carry out an annual audit of the Related Warehouse Company's compliance with the information barrier requirements, and to submit a report to the LME on such compliance.

3 The LME set out in Notice 13/326: A312: W125, and also in its summary public report published on 7 November 2013 (the "**Warehousing Consultation Report**"), the LME's key conclusions, recommendations and decisions arising from its warehousing consultation commenced pursuant to Notice 13/208: A201: W076. This confirmed the LME's view of the appropriateness of its information barrier requirements, and also confirmed, amongst other things, the LME's intention to monitor on an ongoing basis the sufficiency of its information barrier requirements with assistance from external counsel. As part of its market engagement initiatives, the LME also stated its commitment to publishing an annual statement that the required third party external audit reports have been received pursuant to the information barrier requirements and identifying any general issues arising from such reports.

4 In line with Notice 13/326: A312: W125 and the Warehousing Consultation Report, the LME commissioned in late November 2013 an external counsel review to assess the suitability and sufficiency of the information barrier requirements (as set out in Notice 11/334: A326: W173) in achieving their stated aim and to make recommendations (if any) to the LME for improvement. This review has now been concluded. The conclusions reached by external counsel support the LME's view that the LME's information barrier requirements generally provide for a robust and effective compliance framework to protect Confidential Information held by Warehouse Companies, the possession of which by third parties (including Trading Companies) could otherwise give rise to conflicts of interest and, potentially, market abuse. The review has, however, helpfully recommended certain modifications to the existing requirements which the LME believes will further enhance certain aspects of the information barrier requirements.

5 This Notice restates, and makes a number of modifications to, the existing requirements relating to information barriers and supersedes notice 11/334: A326: W173. In particular, this Notice:



- clarifies a Related Warehouse Company's obligation to ensure that access to Confidential Information is granted only to Authorised Recipients and on a "need to know" basis;
- introduces further requirements relating to the training of Warehouse Personnel (including an obligation for Warehouse Personnel to complete a Compliance Test) and relating to the security of Confidential Information;
- introduces new requirements to ensure that Authorised Recipients return Confidential Information when they cease to carry out their role with a Related Warehouse Company;
- clarifies the LME's requirements and expectations in relation to sales or offers of LME warrants within close proximity of a Related Warehouse Company's Location;
- further clarifies the LME's expectations with respect to the Assessment Criteria to be used by Practitioners when assessing the compliance of Related Warehouse Companies with the requirements set out in this Notice;
- clarifies and strengthens the requirements for Members and Warehouse Companies to notify the LME if they are aware of, or have reasonable grounds to suspect, any breach of the requirements of this Notice; and
- clarifies that the Practitioner's Report should include an informative summary of the work performed by the Practitioner in assessing compliance with each of the Assessment Criteria.

6 Part 1 of this Notice restates the LME's information barrier requirements (as modified). Part 2 of this Notice restates, and makes some modifications to, the LME's requirements in relation to the third party assurance of information barriers.

7 The requirements set out in this Notice will become effective on 1 January 2015.

PART 1 – INFORMATION BARRIERS

Definitions

8 For the purposes of this Notice the following words have the following meanings and words or expressions used in the LME Rules or the Conditions shall have the same meaning in this Notice:

"Applicable Regulations" means the rules of the FCA contained in the FCA Handbook (as amended, supplemented or replaced from time to time), the Market Abuse Regime and any equivalent applicable laws, rules or regulations in the jurisdiction of a Related Warehouse Company.

"Assessment Criteria" means the control objectives and associated controls listed at paragraph 50 of this Notice.

"Authorised Recipient" means any employee, director, officer, or contractor of a Related Warehouse Company or any other individual providing services in a similar capacity (including potentially a Designated Individual) whose day-to-day responsibilities could not be carried out without access to certain Confidential Information.



"Close Connection" means, in relation to a Warehouse Company and Trading Company, that: (a) any person or company either directly or indirectly holds or effectively controls 20% or more of the shares or voting rights in both the relevant Warehouse Company and Trading Company; or (b) any Trading Company directly or indirectly holds or effectively controls 20% or more of the shares or voting rights of the relevant Warehouse Company (or vice versa).

"Compliance Acknowledgement" means a statement affirming that an Authorised Recipient or other member of Warehouse Personnel understands and will adhere to their confidentiality obligations and the Confidentiality Policy.

"Compliance Test" means a test designed to assess an Authorised Recipient's understanding and awareness of their confidentiality obligations and the Confidentiality Policy.

"Conditions" means the terms and conditions applicable to all LME listed Warehouse Companies, as amended by the LME from time to time.

"Confidential Information" means, in respect of a Warehouse Company's business, any of the following, either ahead of general publication by the LME or while it remains commercially sensitive:

- (a) stock figures for LME deliverable metal;
- (b) all information relating to proposed or actual shipments of LME deliverable metal to be made or received by that Warehouse Company (including, in respect of shipments to be made by that Warehouse Company, any information of a commercially sensitive nature given to that Warehouse Company by the shipper, his agent or the recipient of that shipment, such as the identity of the customer, customs information, etc);
- (c) all information related to the issuance, holding and cancellation of LME warrants by that Warehouse Company; and
- (d) any other information in relation to specific LME brands which a Warehouse Company acquires through its warehousing activities.

"Confidentiality Policy" means a document setting out the confidentiality policies and procedures adopted by a Related Warehouse Company in order to comply with, and which meets, the requirements set out in this Notice, in particular with respect to the protection of Confidential Information.

"Designated Individual" means any individual who is a director or officer of both a Trading Company and a Related Warehouse Company who has management responsibility in relation to both such entities, or any individual who discharges a control function, including but not limited to compliance, legal, accounting, audit, treasury or tax in relation to both such entities.

"FCA" means the Financial Conduct Authority of the United Kingdom or any successor governmental, statutory or other authority to the FCA from time to time.

"Group" means, in relation to a company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. The terms



"holding company" and "subsidiary" have the meanings given to them in section 1159 of the Companies Act 2006.

"Location" means a location listed as good delivery for LME Contracts.

"the LME" means The London Metal Exchange.

"LME Rules" means the Rules & Regulations of the London Metal Exchange, as published by the LME from time to time.

"Market Abuse Regime" means the market conduct regime set out in the FCA's Market Conduct sourcebook (as amended, supplemented or replaced from time to time) and any equivalent applicable market conduct regime in the jurisdiction of a Relevant Warehouse Company.

"Member" means a Ring Dealing Member, an Associate Broker Clearing Member, an Associate Trade Clearing Member, an Associate Broker Non-Clearing Member or an Associate Trade Non-Clearing Member of the LME, as such terms are defined in the LME Rules.

"Non-Member Trading Company" means a Trading Company which is not a Member.

"Practitioner" means an independent professional accountant in public practice, as agreed between the LME and the Related Warehouse Company from time to time.

"Related Warehouse Company" means a Warehouse Company which is a subsidiary or holding company of a Trading Company, or a subsidiary or holding company of one of a Trading Company's subsidiaries or holding companies, or which otherwise has a Close Connection with a Trading Company. The terms "holding company" and "subsidiary" have the meanings given to them in section 1159 of the Companies Act 2006.

"Report" means a report into compliance with the Standard prepared by a Practitioner.

"Standard" means the International Standard on Assurance Engagement 3000: Assurance Engagements other than Audits or Reviews of Historical Information, issued by the International Auditing & Assurance Standards Board or such other standard as is notified by the LME from time to time.

"Trading Company" means any Member or non-Member company that enters into LME Contracts or trades metal that is deliverable against an LME Contract.

"Warehouse Company" means a warehouse company which has been approved by the LME and which has agreed to be bound by the Conditions.

"Warehouse Personnel" means the employees, directors, officers, and contractors of a Related Warehouse Company and any individuals providing services in a similar capacity.

Requirements in relation to Confidential Information

9 Under the terms of the Conditions, a Warehouse Company is prohibited from dealing directly or indirectly in LME Contracts, and should maintain the confidentiality of price sensitive and customer confidential information. These requirements are an important part of the LME's rules and practices



designed to ensure the orderliness of its market. The primary responsibility for complying with these obligations rests with the Warehouse Company. All Warehouse Personnel must be made aware of their responsibilities under the Market Abuse Regime, in particular not to disclose or deal in the possession of, or on the basis of, Confidential Information (see paragraph 27).

10 A Member which encouraged or facilitated a Warehouse Company to breach these requirements would itself be in breach of its obligation to observe high standards of integrity and fair dealing and high standards of market conduct under Regulation 9.6 of Part 2 of the LME Rules. A Member which took advantage of its trading of Confidential Information would be in breach of Regulation 9.6.

11 Equally, a Non-Member Trading Company which used the existence of its Close Connection with a Warehouse Company to obtain Confidential Information would obtain an unfair advantage over other Trading Companies.

Members

12 The risk that Confidential Information may pass between a Warehouse Company and a Member is increased if they are both companies in the same Group or otherwise have a Close Connection. A Member must not unfairly take advantage of its Group relationship with a Related Warehouse Company by utilising Confidential Information in a way which would jeopardise the proper functioning of the metal markets, or breach any Applicable Regulation, with which all Members must comply, along with the LME Rules.

13 It is essential that personnel engaged in trading activities in relation to the LME market do not come into possession of any Confidential Information. Where a Related Warehouse Company is part of the same Group as a Member, the LME considers that this can only be assured if appropriate procedures exist within both the Member and the Related Warehouse Company. Within the Member itself, this will require that all personnel engaged in trading activities are made aware of the confidentiality procedures adopted by the Related Warehouse Company to comply with the requirements set out below, and advised that if they inadvertently come into possession of any Confidential Information they must not trade on the basis of the information. Strict procedures, as set out below, must be put in place within the Member itself to ensure these provisions are complied with.

Non-Member Trading Companies

14 Where the Related Warehouse Company is part of the same Group as, or has a Close Connection with, a Non-Member Trading Company, the LME has no direct relationship with that Non-Member Trading Company and cannot enforce rules directly against it. However, the onus for compliance with the rules in relation to information barriers falls primarily on the Related Warehouse Company. The LME will seek to enforce any breach of the rules in such circumstances against the Related Warehouse Company.

Procedures to be followed

15 In order to ensure that Confidential Information is properly protected where a Trading Company has a Related Warehouse Company, the LME expects the Related Warehouse Company and, if applicable, the Member to put in place procedures which satisfy the following requirements:



A - "Need to Know" Principle and Confidentiality Policy

16 A Related Warehouse Company must have in place a documented Confidentiality Policy accessible to all Warehouse Personnel and communicated to them on a regular basis (and in any event not less than annually).

17 The LME expects Related Warehouse Companies to organise their affairs in such a way that both the number of Authorised Recipients and the extent of access to Confidential Information by such Authorised Recipients is kept to a minimum.

18 A Related Warehouse Company shall ensure that access to Confidential Information:

- (a) shall not be given to any person other than an Authorised Recipient; and
- (b) is, in each case, limited solely to the specific Confidential Information that the Authorised Recipient strictly needs to know in order to carry out their day-to-day responsibilities for the Related Warehouse Company.

19 For the purposes of paragraph 18 above, it is the responsibility of each Related Warehouse Company to assess what specific Confidential Information is necessary for each category of Authorised Recipient in order to carry out their day-to-day responsibilities and to document this in the Confidentiality Policy. It may be necessary for a Related Warehouse Company to redact or modify certain Confidential Information to make it less sensitive (for example, by setting out the information in more general or aggregated form without disclosing any confidential or price sensitive details) to enable it to be provided to individuals who are not Authorised Recipients or who are, but do not strictly need to know the relevant Confidential Information in order to carry out their day-to-day responsibilities for the Related Warehouse Company.

20 It is possible that, in exceptional circumstances, Authorised Recipients may include Designated Individuals. A Related Warehouse Company must keep and maintain an up-to-date written record of all: (i) the identity of Authorised Recipients and Designated Individuals; and (ii) the nature of any Confidential Information to which any Authorised Recipient or Designated Individual has access to. In addition, Designated Individuals should confirm on an annual basis that they have complied with the requirements of paragraphs 17 to 20.

B - Physical Separation

21 All Confidential Information (including any document containing or incorporating any Confidential Information), whether held in hard copy or electronic form, must be kept securely and be properly protected against theft, damage, loss and unauthorised access (including by electronic means). Access to Confidential Information by any individual who is not a relevant Authorised Recipient must be effectively restricted at all times (i.e. by locked door, security card, signing in and out procedure etc.).

22 All Confidential Information held within a computer system must be accessible only by relevant Authorised Recipients using individual accounts and be protected by a password or equivalent. Passwords should be changed at regular intervals and meet best practice standards.



23 A Related Warehouse Company shall notify the LME as soon as reasonably practicable upon becoming aware that any of its security procedures have been breached or that any of the Confidential Information has been disclosed to or obtained by a third party (otherwise than as expressly permitted by this Notice or agreed with the LME).

C - Separation of Personnel

24 Warehouse Personnel should be physically separated from the personnel of a Trading Company. Where they occupy the same premises, security access systems must be installed to prevent unauthorised access.

25 It is essential that Authorised Recipients do not also carry out any functions for a Trading Company, although the LME acknowledges that for strategic reasons it may be necessary for a Designated Individual to be a director of both a Related Warehouse Company and a Trading Company. In the case of Designated Individuals, strict procedures must be put in place regarding board meetings etc, to ensure that no Confidential Information is disclosed by that director to other personnel of that Trading Company. Such procedures may include, but shall not be limited to, provision for a director to remove himself from meetings at which Confidential Information is produced or discussed.

D – Authorised Recipients

26 It is essential that Related Warehouse Companies ensure that all Authorised Recipients are familiar with the principles outlined in this Notice and the procedures adopted to comply with this Notice and abide by them.

27 All Authorised Recipients must receive appropriate training upon commencing their role with a Related Warehouse Company and periodically at least once every two years thereafter. The training should include, amongst other things, the obligations of Authorised Recipients:

- (a) under the Confidentiality Policy (a copy of which should be provided); and
- (b) under the Applicable Regulations.

It must be impressed upon Authorised Recipients that their obligations apply both during and outside of office hours.

28 All Authorised Recipients should complete a Compliance Test:

- (a) upon completion of their training; and
- (b) thereafter at least once every two years.

In the event that any of the Authorised Recipients fail to achieve a satisfactory result in a Compliance Test, a Related Warehouse Company must take steps to provide appropriate additional training to such individuals. Upon satisfactory completion of each Compliance Test, Authorised Recipients should sign a Compliance Acknowledgement.



29 Internal sanctions should be established for breach of the Confidentiality Policy and should be strictly enforced. Depending on the nature of the breach, disciplinary sanctions may range from written warnings to dismissal.

30 Related Warehouse Companies should have procedures to vet all Authorised Recipients to ensure that they are appropriate and suitable to handle Confidential Information.

31 As soon as possible upon becoming aware that any Authorised Recipient will cease to hold a role which requires access to Confidential Information, the Related Warehouse Company must take all reasonable steps to ensure that, before the date on which the Authorised Recipient's role will cease, such Authorised Recipient has:

- (a) ceased to have access to any Confidential Information contained on any electronic device used by the Authorised Recipient;
- (b) returned all documents and other materials (whether in hard copy or electronic form) containing or incorporating any Confidential Information to the Related Warehouse Company; and
- (c) certified to the Related Warehouse Company in writing that (a) and (b) above have been complied with.

32 Related Warehouse Companies shall at all times (and for a period of at least 6 years in each case) keep and maintain up to date and accurate written records of:

- (a) all training provided to Authorised Recipients;
- (b) the results of each Compliance Test;
- (c) all Compliance Acknowledgements;
- (d) any breaches of the Confidentiality Policy; and
- (e) any disciplinary sanctions imposed upon any Warehouse Personnel for any breach of the Confidentiality Policy.

E - Senior Employee

33 Related Warehouse Companies must appoint a senior employee who is responsible for ensuring that the confidentiality procedures adopted to comply with this Notice are effective and are followed. Members' own compliance officers shall be responsible for ensuring that Members adopt and follow fully compliant procedures in accordance with the requirements of this Notice.

F - Technology Controls

34 Related Warehouse Companies should ensure that their electronic systems are sufficiently robust to ensure that Confidential Information is protected from theft, damage, loss and unauthorised access. In particular, physical access to the production data centre(s) and systems storing Confidential Information should be restricted to Authorised Recipients and other appropriate



individuals with day-to-day responsibility for information technology and the data centre used for the storage of such Confidential Information should be protected from environmental hazards.

35 Logical access to programs and data stores containing Confidential Information should be restricted to Authorised Recipients with day-to-day responsibility for information technology.

36 The process implemented by Related Warehouse Companies for managing changes to existing applications and data stores containing Confidential Information, as well as changes to supporting system software, should ensure that the changes do not impact the logical access controls in place.

G - Discounted LME Warrants

37 A Member with a Related Warehouse Company which operates a listed warehouse in a particular Location must not sell or offer to sell LME warrants issued in respect of other Warehouse Companies operating in the same Location or within a 250 mile radius of the relevant Location at a discount to the Related Warehouse Company's LME warrants, unless it can demonstrate that it would have offered the same discount even if it did not have a Related Warehouse Company.

38 Subject to the above proviso, a Member must not otherwise offer any incentive to customers to exchange or substitute LME warrants issued by a Related Warehouse Company for LME warrants issued by any other Warehouse Company's listed warehouse in the same Location or within a 250 mile radius of the relevant Location.

39 Notwithstanding the lack of a direct relationship between Non-Member Trading Companies and the LME (as noted in paragraph 14), the LME expects similar principles to those set out in paragraph 37 and paragraph 38 to apply to Non-Member Trading Companies (and for the purposes of the following sentence, reference to a Member in paragraph 37 and paragraph 38 shall be deemed to extend also to a Non-Member Trading Company). Without prejudice to the general duty to inform the LME of breaches of the requirements of this Notice under paragraph 41 below, any Member or Warehouse Company which is aware of, or has reasonable grounds to suspect, any breach by a Non-Member Trading Company of paragraph 37 and/or paragraph 38 must notify the LME as soon as reasonably practicable in writing of that fact.

H - Access to Warehouses

40 Personnel of a Member with responsibilities for a Related Warehouse Company must not be permitted to inspect metal held on LME Warrant by that Member at another Warehouse Company.



J - Duty to Inform LME of Breaches

41 A Member or Warehouse Company which is aware of, or has reasonable grounds to suspect, any breach of any of the requirements of this Notice must notify the LME as soon as reasonably practicable in writing of that fact.

42 Without prejudice to paragraph 41 above, a Member which comes into possession of any Confidential Information through a breach of the requirements of this Notice, whether through an Authorised Recipient or any related party (such as a non-executive director or consultant), or from a Related Warehouse Company or otherwise, must notify the LME as soon as reasonably practicable in writing of that fact.

I - Enforcement

43 Breach of the procedures set out in this Part 1 by a Member or a Related Warehouse Company will be regarded as an act of misconduct and will be liable to disciplinary action.

PART 2 – THIRD PARTY ASSURANCE OF INFORMATION BARRIERS

Assurance Report

44 Each Related Warehouse Company must engage a Practitioner to perform a reasonable assurance engagement under the Standard. The Practitioner shall produce a Report in accordance with the requirements of this Part 2 of the Notice. The Practitioner shall confirm in the Report that it has complied with the Standard. The Report shall include an assertion by management regarding compliance with the requirements of this Notice.

45 The cost of the Report shall be borne by the Related Warehouse Company.

46 The Report shall assess compliance by the Related Warehouse Company with each aspect of the Assessment Criteria.

47 The Report shall include an appropriately detailed structure chart of the Group of which the Related Warehouse Company is a member indicating, amongst other things, the direct or indirect relationship(s) (if any) between a Related Warehouse Company and a Trading Company.

48 The Report shall include an informative summary of the work performed by the Practitioner in assessing compliance with each aspect of the Assessment Criteria (including, where appropriate, a description of the nature, timing and extent of the work performed).

49 The Report shall be in English. The first Report to be prepared in accordance with the requirements of this Notice shall cover the period 1 January to 31 December 2015 and should be submitted to the LME by not later than 30 April 2016. Each subsequent Report shall cover the twelve month period starting on the day after the end of the previous report period and should be submitted to the LME by not later than four months from the end of the period covered.

Assessment Criteria

50 The Assessment Criteria are as follows:



- (a) there is a documented Confidentiality Policy which is accessible to Warehouse Personnel and communicated to them on a regular basis (and, in any event, not less than annually) (see paragraph 16);
- (b) access to Confidential Information is not given to any person other than an Authorised Recipient and is, in each case, limited solely to the specific Confidential Information that the Authorised Recipient strictly needs to know in order to carry out their day-to-day responsibilities for the Related Warehouse Company (see paragraph 18);
- (c) the Related Warehouse Company assesses what specific Confidential Information is necessary for each category of Authorised Recipient in order to carry out their day-to-day responsibilities and documents this in their Confidentiality Policy (see paragraph 19);
- (d) the Related Warehouse Company keeps and maintains an up-to-date written record of the identity of all Authorised Recipients and Designated Individuals and the nature of any Confidential Information to which they have access (see paragraph 20);
- (e) Designated Individuals confirm on an annual basis that they have complied with the requirements of paragraphs 17 to 20 of this Notice (see paragraph 20).
- (f) all Confidential Information (including any document containing or incorporating any Confidential Information), whether held in hard copy or electronic form, is kept securely and is properly protected against theft, damage, loss and unauthorised access (including by electronic means) (see paragraph 21);
- (g) access to Confidential Information by any individual who is not a relevant Authorised Recipient is effectively restricted at all times (see paragraph 21);
- (h) all Confidential Information held within a computer system is accessible only by Authorised Recipients using individual accounts and is protected by a password or equivalent. Passwords are changed at regular intervals and meet best practice standards (see paragraph 22);
- (i) all Warehouse Personnel are physically separated from the personnel of a Trading Company. Where such personnel occupy the same premises, security access systems have been installed to prevent unauthorised access (see paragraph 24);
- (j) where it is the case that a Designated Individual is a director of both a Related Warehouse Company and a Trading Company, the Related Warehouse Company has strict procedures in place regarding board meetings etc, to ensure that no Confidential Information is disclosed by that director to other personnel of that Trading Company (see paragraph 25);
- (k) all Authorised Recipients receive appropriate training upon commencing their role with a Related Warehouse Company and periodically at least once every two years thereafter (see paragraph 27);
- (l) all Authorised Recipients complete a Compliance Test upon completion of their training and thereafter at least once every two years (see paragraph 28);



- (m) where any of the Authorised Recipients have failed to achieve a satisfactory result in a Compliance Test, a Related Warehouse Company takes steps to provide appropriate additional training to such individual (see paragraph 28);
- (n) all Authorised Recipients sign a Compliance Acknowledgement (see paragraph 28);
- (o) the Related Warehouse Company has internal sanctions for breach of the Confidentiality Policy and such sanctions are strictly enforced (see paragraph 29);
- (p) the Related Warehouse Company has procedures to vet all Authorised Recipients to ensure that they are appropriate and suitable to handle Confidential Information (see paragraph 30);
- (q) the Related Warehouse Company takes all reasonable steps to ensure that, as soon as possible upon becoming aware that any Authorised Recipient will cease to hold a role which requires access to Confidential Information and before the date on which the Authorised Recipient's role will cease, such Authorised Recipient has: (a) ceased to have access to any Confidential Information contained on any electronic device used by the Authorised Recipient; (b) returned all documents and other materials (whether in hard copy or electronic form) containing or incorporating any Confidential Information to the Related Warehouse Company; and (c) certified to the Related Warehouse Company in writing that (a) and (b) above have been complied with (see paragraph 31);
- (r) the Related Warehouse Company keeps and maintains up-to-date accurate written records of the matters listed at paragraph 32 of this Notice in accordance with the requirements of that paragraph;
- (s) a senior employee is appointed who is responsible for ensuring that the confidentiality procedures adopted to comply with this Notice are effective and are followed (see paragraph 33);
- (t) the Related Warehouse Company's electronic systems are sufficiently robust to ensure that Confidential Information is protected from theft, damage, loss and unauthorised access (see paragraph 34);
- (u) physical access to the production data centre(s) and systems storing Confidential Information is restricted to Authorised Recipients and other appropriate individuals with day-to-day responsibility for information technology and the data centre is protected from environmental hazards (see paragraph 34);
- (v) logical access to programs and data stores containing Confidential Information is restricted to Authorised Recipients with day-to-day responsibility for information technology (see paragraph 35);
- (w) the change management process implemented ensures that changes to application and data stores containing Confidential Information, as well as changes to supporting system software, do not impact the logical access controls in place (see paragraph 36).

Confidentiality



51 Each Report is to be addressed to the Related Warehouse Company and provided to the LME. Other than (i) confidentially disclosing a Report to its own professional advisors and affiliates (except any Trading Company with which it has a Close Connection), or (ii) disclosing it as required under applicable law or regulation or as requested by any regulatory authority or directed by a court or other regulatory body of competent jurisdiction, a Related Warehouse Company must not disclose a Report or any associated documentation to any third party. Without prejudice to paragraph 52, the LME shall hold the Report and all associated documentation on the same basis as the Related Warehouse Companies.

52 The LME intends to publish a statement on an annual basis confirming that each Related Warehouse Company has submitted a Report to the LME in compliance with the requirements of this Notice. Such statement may identify any general issues arising from such Reports, but shall not attribute any failure to comply with the requirements of this Notice to any particular Warehouse Company.

Remedial Action

53 A Related Warehouse Company must have effective information barriers in place so that it obtains reasonable assurance from its third party assurance provider as to compliance with the Standard. Where a Report is qualified or includes exceptions or observations, the Related Warehouse Company shall produce a plan setting out the actions it is to take to remedy all exceptions and observations noted in the Report and provide this remedial plan to the LME.

54 The Related Warehouse Company shall regularly report to the LME on the actions taken to implement a remedial plan in accordance with the instructions of the LME. In certain circumstances the LME may require the Related Warehouse Company to commission an additional Report, not less than six months after the original Report, to verify that the Related Warehouse Company has improved its information barriers so that it obtains reasonable assurance from its third party assurance provider that the information barriers it has in place are compliant with the Assessment Criteria.

Enforcement

55 Serious breach of the procedures set out in this Part 2 by a Member or a Related Warehouse Company may be regarded as an act of misconduct and may result in disciplinary action and the imposition of a severe penalty. However, the LME acknowledges that, after the first assurance Report has been carried out, more recommendations may be made than in subsequent years. The LME anticipates that, except in serious cases, it will work with the Related Warehouse Company to remedy the issues identified by the Report, rather than taking immediate enforcement action. Nevertheless, should a Related Warehouse Company fail to achieve the requisite level of assurance within such timescales as the LME deems reasonable given all the circumstances, the full range of disciplinary procedures set out in the handbook on enforcement and disciplinary procedures applicable to Warehouses will be available to the LME.

PART 3 – REVIEW

56 The procedures set out in Parts 1 and 2 of this Notice will be strictly monitored, with assistance from external counsel (as appropriate), and will be reviewed on an ongoing basis to



ensure that the new system is delivering fair and transparent trading relations and preventing the misuse of confidential and price sensitive information.

N. D. Ong

Nick Ong-Seng

Managing Director: Regulation & Compliance

cc Board members

Warehousing committee