

Version 1.1

## London Metal Exchange

### Jurisdictions

13 July 2021

#### *United Kingdom*

The London Metal Exchange (the “Exchange” or the “LME”) is a recognised investment exchange under the Financial Services and Markets Act 2000 and is permitted to make electronic access to LMEselect and LMEsmart available to members and/or their agents in the United Kingdom.

#### *European Economic Area*

Whilst the UK and the European Union have now entered into a trade and cooperation agreement, terms governing the cross-border provision of financial services have not been included in the agreement and will be reviewed during the first part of 2021. As such, the Exchange will not have an automatic right to provide access to its systems to entities in EEA jurisdictions. Whether access can be provided will therefore depend on the domestic rules applicable in individual Member States. Further detail regarding the position in respect of the EEA jurisdictions that are relevant to the Exchange’s current membership, and those which members have indicated may be potentially relevant, is set out below.

#### *France*

The Exchange has been advised that it is able to continue to facilitate access to its systems by participants located in France without the need for a licence or specific permission. The Exchange is therefore able to continue to admit members located in France and to provide remote access to its systems to members and participants located in France without disruption.

This position may change should any member provide services to clients located in France who may be classified as “retail” clients pursuant to MiFID II.

#### *Germany*

The German Federal Financial Supervisory Authority (“BaFin”) has granted permission to the Exchange in accordance with section 102 German Securities Trading Act. This permission covers the provision of direct market access to participants located in Germany through the LME’s electronic trading systems. The Exchange may therefore continue to admit members located in Germany and to provide remote access to its systems to members and participants located in Germany without disruption.



### *Netherlands*

The Dutch Ministry of Finance granted the Exchange dispensation under Article 5:26(3). The Exchange is therefore able to continue to admit members located in the Netherlands and to provide remote access to its systems to members and participants located in the Netherlands, without disruption.

### *Norway*

The Exchange has been advised that it is able to continue providing access to its systems by participants located in Norway without the need for a licence or specific permission. The Exchange is therefore able to continue admitting members located in Norway and providing remote access to its systems to members and participants located in Norway, without disruption.

### *Cyprus*

The Cyprus Securities and Exchange Commission has indicated that the Exchange may admit members located in Cyprus, and provide access to its systems to such members located in Cyprus.

### *Australia*

On 10 April 2007 the Parliamentary Secretary to the Treasurer granted to the Exchange an Australian Market Licence under subsection 795B(2) of the Australian Corporations Act 2001 to operate a financial market in derivatives, including LMEselect and LMEsmart (the "Licence"). As a result, members and/or their agents may access LMEselect or LMEsmart from Australia, subject to the conditions set out in this Notice.

The Licence specifically requires the Exchange to impose conditions on members based in Australia who trade directly (not through an agent based in Australia) on LMEselect ("Australian participants").

The Licence obligates the Exchange to require Australian participants to hold an Australian financial services licence that permits trade in products of the same kind as those that can be dealt with on the Exchange, unless the participant is exempt under Australian law from the requirement to hold such a licence in relation to participation on the Exchange. Australian participants must notify the Exchange as soon as practicable if their permission to trade in products offered on the Exchange or the licence under which that permission exists is suspended or revoked.

In addition, the Licence obligates the Exchange to require Australian participants to disclose to their clients in Australia, before accepting the first order from the client to deal



on the market, the differences between trading derivatives on the Exchange and an Australian-based market, including, but not limited to, the following:

- (a) that the Exchange's principal place of business is located in the United Kingdom, and the Exchange is regulated primarily under the regulatory regime of the United Kingdom;
- (b) that the rights and remedies of, and compensation arrangements for, investors who acquire products offered on the Exchange may differ from the rights and remedies of, and compensation arrangements for, investors who acquire products offered on an Australian-based market; and
- (c) that Australian investors who acquire products offered on the Exchange may be subject to the effects of changes in currency exchange rates.

Members trading on LMEselect in Australia through agents based in Australia must ensure that their agents have secured all the necessary authorisations and approvals needed by them to be able to trade as agents in Australia.

#### *Canada (Ontario)*

On December 21, 2018 the Ontario Securities Commission granted an order (the "LME Order") to the LME exempting it from the requirement to be recognized as an exchange under section 21(1) of the Ontario Securities Act, and as a commodity futures exchange under the Ontario Commodity Futures Act (the "CFA"). The LME Order also exempts trades in contracts on the LME by (i) a "hedger" as defined in subsection 1(1) of the CFA (a "Hedger"); and (ii) a bank listed in Schedule I to the Bank Act (Canada) (a "Bank") entering orders as principal for its own account, from the registration requirements under the CFA. Finally, the LME Order also exempts trades in LME contracts by a participant in Ontario from the trading restrictions under section 33 of the CFA. As a result of the LME Order, LME is permitted to offer prospective participants in Ontario access to the LMEselect system, the inter-office market, Ring-dealing on the LME and to clearing support services provided it complies with the conditions of the LME Order.

LME can only provide direct access to Ontario participants that are either (a) appropriately registered to trade in LME contracts; (b) a Hedger (in reliance on the "Hedger Relief"), or (c) a Bank (in reliance on the "Bank Relief"), or (d) have otherwise received an exemption from registration under the CFA. To confirm an Ontario participant's status, LME can rely on a written representation from the participant and Ontario participants must notify LME if their registration or exemption from registration is revoked, suspended, or amended by the OSC, or if they are no longer a Bank or Hedger.

A participant seeking access to the LME under the Hedger Relief or Bank Relief must also meet a specific set of conditions. A participant seeking to rely on the Hedger Relief will be required, as part of its application or continued access to trading in LME contracts,



to:

- Acknowledge that the LME deems the Hedger representation to be repeated each time it enters an order for a LME contract and the Ontario participant must be a Hedger for the purposes of each trade resulting from such an order;
- Represent that (insofar as it relies on the Hedger Relief) it will only enter orders for its own account;
- Acknowledge that it is a market participant under the CFA and is subject to applicable requirements; and
- Acknowledge that its ability to continue to rely on the Hedger Relief in accessing trading on the LME will be dependent on the OSC continuing to grant the relief and may be affected by changes to the terms and conditions imposed in connection with the Hedger Relief or by changes to Ontario securities laws or Ontario commodity futures laws pertaining to derivatives, commodity futures contracts, commodity futures options or securities.

Similarly, a participant seeking to rely on the Bank Relief will be required, as part of its application or continued access to trading in LME contracts, to:

- Acknowledge that the LME deems the Canadian Bank Representation to be repeated each time the Ontario Participant enters an order for a LME contract and that the Ontario Participant must be a Bank for the purposes of each trade resulting from such an order;
- Represent that (insofar as it relies on the Bank Relief) it will only enter orders as principal and for its account only;
- Acknowledge that the Bank Relief may be affected by changes to the terms and conditions imposed in connection with the Bank Relief or by changes to Ontario securities laws or Ontario commodity futures laws pertaining to derivatives, commodity futures contracts, commodity futures options or securities; and
- Represent that it is not engaging in activities prohibited by its governing legislation.

Direct electronic access is permitted only in circumstances where both the member *and* client are appropriately registered to transact in LME clients under the CFA, or permitted to do so pursuant to an exemption. Members who transact on the LME in reliance upon either the Bank Relief or Hedger relief are therefore not permitted to offer order routing services (also known as direct electronic access) to clients in Ontario.

Registered Intermediating Brokers or “RIBs” who are based in Ontario or acting for a client who is in Ontario must be appropriately registered under Ontario securities laws or be permitted to rely on a registration exemption available under such laws.

*Dubai - Dubai International Financial Centre (DIFC) only*

On 12 February 2019 the LME was granted the status of a Recognised Body by the Dubai Financial Services Authority (“DFSA”), the regulatory authority for the Dubai International



Financial Centre (“DIFC”).

The LME’s Recognised Body status permits the LME to grant membership to entities that are domiciled in the DIFC. The LME notes, however, that it currently does not accept Category 1, 2 or 3 members in the DIFC.

Upon becoming a member of the LME, DIFC-domiciled entities may access LMEselect and LMEsmart directly from the DIFC. Additionally, non-member participants of the LME who are located in the DIFC may also directly access LMEselect and LMEsmart from the DIFC.

### *Hong Kong*

On 11 July 2006 the Hong Kong Securities and Futures Commission (“SFC”) granted the Exchange authorisation for providing automated trading services under Part III of the Securities and Futures Ordinance (“SFO”).

The authorisation provides that access to LMEselect from Hong Kong may be provided to or used by category 1, 2, 3 or 4 members or their agents who are licensed by the SFC under Part V of the SFO or authorised under Part III of the SFO unless the SFC agrees otherwise. Members or their agents who wish to have direct access to LMEselect from Hong Kong must confirm to the LME in writing that they are appropriately licensed or authorised.

### *India*

The Securities and Exchange Board of India (“SEBI”) regulates commodity derivatives transactions in India under the Securities Contracts (Regulation) Act, 1956 (the “SCRA”). Under Section 13 of the SCRA, contracts for securities, which includes commodity derivatives in specified goods (other than spot delivery contracts) entered into in India are prohibited. Furthermore, prior to the Forward Markets Commission (“FMC”) being merged with SEBI, it issued guidance stating that *“real time trading in a commodity by opening the terminals of foreign commodity exchanges in India without prior approval of the central government or FMC, as the case may be, would be deemed as illegal”*. Accordingly, the LME understands that persons located in India are prohibited from engaging in real time trading in commodities using LMEselect, unless such members have obtained the prior approval of SEBI or the government of India.

As LMEsmart does not allow a person having access to the system to undertake any real-time commodity trading activity from India, the LME understands that: (a) the input of trades onto LMEsmart solely for matching purposes; and (b) the amendment, cancellation and replacement of a trade if it has been entered erroneously, is unlikely to be prohibited by SEBI. The LME believes this to be the case on the basis that: (i) members that enter into LME Contracts are not incorporated or established in India; (ii)



there is no inflow or outflow of foreign currency into or from India in relation to the exchange contracts; and (iii) decision making in respect of entry into and execution of the orders is undertaken outside of India.

### *Japan*

The Ministry of Economy, Trade and Industry in Japan has confirmed that the Exchange may make LMEselect available in Japan to those of its members and their agents who have any regulatory approvals in Japan needed by them in order to trade on LMEselect via LMEselect from Japan.

The Ministry of Economy, Trade and Industry has requested that we inform all members and their agents who wish to trade on LMEselect from Japan that they will be required to abide by the Commodity Derivatives Act (*shouhin sakimono torihiki hou*) of Japan.

The LME understands that there are no additional regulatory obligations or restrictions on the LME or its members who wish to access LMEsmart from Japan.

### *People's Republic of China*

The Exchange has been advised that no approval is needed by it in the PRC in order to make LMEselect and LMEsmart available in the PRC. Members and their agents wishing to access LMEselect or LMEsmart from the PRC are required to satisfy themselves that they have any regulatory approvals in the PRC needed by them in order to engage in futures trading and access LMEselect or LMEsmart from the PRC.

### *Singapore*

Following the transfer of regulatory oversight for commodity futures from International Enterprise Singapore to the Monetary Authority of Singapore ("MAS"), MAS recognised the LME as a Recognised Market Operator with effect from 8 April 2008. As a result, members and/or their agents may continue to access LMEselect or LMEsmart from Singapore, subject to the conditions set out in this Notice.

In respect of investors in Singapore, the LME shall only allow professional investors and accredited investors to trade on its markets, whether directly or through an intermediary (being another professional investor) operating in Singapore.

A "professional investor" means each of the following:

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank that is licensed, or treated as having been granted a merchant bank licence, under the Banking Act;



- (c) a finance company that is licensed under the Finance Companies Act (Cap. 108);
- (d) a company or society registered under the Insurance Act (Cap. 142) as an insurer;
- (e) the Singapore Government;
- (f) a statutory body established under any Act in Singapore;
- (g) the Government of Singapore Investment Corporation Pte Ltd;
- (h) a pension fund;
- (i) a collective investment scheme, as defined under section 2(1) of the Securities and Futures Act (Cap. 289) (“SFA”);
- (j) a holder of a capital markets services licence under the SFA;
- (k) a member of the LME, being a person who is exempted from the requirement to hold a capital markets services licence to carry on business in trading in futures contracts under paragraph 3(a) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) (“SFR”);
- (l) a company headquarters or Finance and Treasury Centre which carries on a class of business involving fund management, but only to the extent that the business involving fund management has been approved as a qualifying service in relation to the company headquarters or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be;
- (m) a company in the Global Trader Programme established by International Enterprise Singapore;
- (n) a financial adviser licensed under the Financial Advisers Act (Cap. 110) who uses the LME’s services solely for the purpose of trading for its own account;
- (o) a person exempted under paragraph 5(1)(d) of the Second Schedule to the SFR who has assets under management of not less than S\$15 million; and
- (p) a hedge fund that has assets under management of not less than S\$15 million.

An “accredited” investor has the meaning prescribed to it under section 4A(1) of the SFA, being:

- (a) an individual



- (i) whose net personal assets exceed in value S\$2 million (or its equivalent value in a foreign currency) or such other amounts as MAS may prescribe in place of the aforementioned amount; or
  - (ii) whose income in the preceding 12 months is not less than S\$300,000 (or its equivalent value in a foreign currency) or such other amounts as MAS may prescribe in place of the aforementioned amount; or
- (b) a corporation with net assets exceeding S\$10 million in value (or its equivalent value in a foreign currency) or such other amounts as MAS may prescribe, in place of the aforementioned amount, as determined by:
  - (i) the most recent audited balance-sheet of the corporation; or
  - (ii) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation as of the date of the balance-sheet, which must be dated within the preceding 12 months;
- (c) the trustee of any such trust that MAS may prescribe, when acting in their capacity as trustee; or
- (d) such other persons as MAS may prescribe.

### *South Africa*

The Exchange has received legal advice that it does not require authorisation from the Financial Services Board of South Africa under either the Financial Advisory and Intermediary Services Act 2002 or the Financial Markets Act 2012 to allow its members or their agents to access LMEselect or LMEsmart from South Africa. However, members are advised to seek their own legal advice before canvassing for, marketing or advertising their services in South Africa.

### *Switzerland*

Pursuant to a decision dated 15 May 2017, the Exchange is recognised by the Swiss Financial Market Supervisory Authority ("FINMA") as a foreign trading venue in accordance with Article 41 of the Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading. The Exchange is authorised to grant FINMA-supervised Swiss participants direct access to its facilities (including LMEselect and LMEsmart). Admission of non-regulated Swiss participants is subject to local law.

The Exchange understands that it does not require authorisation for non-Swiss members to access LMEselect and LMEsmart from Switzerland through Swiss based agents.





### *United States of America*

On 31 October 2016, the U.S. Commodity Futures Trading Commission (“CFTC”) issued an Order of Registration to the LME as a Foreign Board of Trade (“FBOT”).

Under the Order, the LME is permitted to provide identified members or other participants located in the U.S. with direct access to its electronic order entry and trade matching systems. To be eligible for direct access to the LME’s systems, such member or other participant must:

- (a) enter all orders solely for its own accounts; or
- (b) be registered with the CFTC as a futures commission merchant and submit orders to LMEselect and/or LMEsmart for execution in that capacity; or
- (c) be registered with the CFTC as a commodity pool operator or operate as a commodity pool operator pursuant to exemption from such registration under CFTC Regulation 4.13, and submit orders to LMEselect and/or LMEsmart in that capacity, provided that a registered futures commission merchant (or a firm exempt from such registration pursuant to CFTC Regulation 30.10) clears the transactions; or
- (d) be registered with the CFTC as a commodity trading advisor, or operate as a commodity trading advisor pursuant to exemption from registration under CFTC Regulation 4.14, and submit orders to LME select and/or LMEsmart in that capacity, provided that a registered futures commission merchant (or a firm exempt from such registration pursuant to CFTC Regulation 30.10) clears the transactions.

Additionally, in order to fulfil the FBOT registration requirements, each current and prospective member or other participant that is given direct access to LMEselect and/or LMEsmart, and who is not registered with the CFTC as a futures commission merchant, a commodity trading advisor or a commodity pool operator, must:

- (a) file with the LME a written representation, executed by a person with the authority to bind the member or other participant, stating that as long as the member or other participant is authorized to enter orders directly into the trade matching system of the LME, the member or other participant agrees to and submits to the jurisdiction of the Commission with respect to its LME trading activities; and
- (b) maintain with the LME a written representation, executed by a person with the authority to bind the member or other participant, stating that as long as the member or other participant is authorized to enter orders directly into the trade matching system of the LME, the member or other participant will provide, upon the request of the Commission, the United States Department of Justice and, if appropriate, the National Futures Association, prompt access to the entity's, member's, or other participant's original books and records or, at the election of the requesting agency,



a copy of specified information containing such books and records, as well as access to the premises where the trading system is available in the United States.

These representations must be provided to the LME in the format prescribed by the LME. This standard wording is available on request from the LME Market Access team. LME must maintain the above representations as part of its books and records for at least five years and must make them available to the CFTC upon request.

Members that have direct access from the United States must also submit to the LME their National Futures Association identification numbers (if applicable), and main business addresses in the United States from which such members access LMEselect or LMEsmart.

### **Members' Requirements**

Pursuant to the LME Rules & Regulations, only Category 1, 2, 3 and 4 members may have direct access to LMEselect and LMEsmart. Members are reminded that any agent of a member accessing LMEselect or LMEsmart directly does so in the name of the relevant member, and members are responsible for any agent acting in their name. The Exchange shall have no business relationship with any agent of a member.

Members are reminded that they are at all times responsible for ensuring that they and any agents have secured any regulatory approvals needed by them in any jurisdiction in order to access LMEselect or LMEsmart from that jurisdiction and for complying with applicable laws and regulations.

In addition, members who wish to access the LMEselect API from any jurisdiction need to meet all LME FIX Conformance requirements and need to ensure that they have gained any necessary regulatory approval prior to IT deployment.

Following exchange notification, members' compliance departments may request user logins for users in the approved location, via email to [TradingOperations@lme.com](mailto:TradingOperations@lme.com). Users from overseas locations will be given a username that includes a code for that jurisdiction. This will allow the LME to track volumes from the different overseas locations. Trader accreditation will then take place via the telephone on a LME Select test system.

Any questions should be directed to the LME Helpdesk on + 44 (0)20 7113 8200 or email [TradingOperations@lme.com](mailto:TradingOperations@lme.com).