

LME consultation on responsible sourcing



SETTING THE GLOBAL STANDARD



Table of Contents

1.	EXECUTIVE SUMMARY	3
2.	THE CONSULTATION PROCESS	4
	2.1. Responding to the Consultation	4
	2.2. Elements of the Consultation	4
	2.3. Capitalised terms	4
	2.4. The consultation process, timing and steps following consultation	5
	2.5. Benefits and unintended consequences	5
3.	FEATURES UNDERPINNING THE LME PROPOSAL	6
4.	LME PROPOSAL	8
	4.1. Overview	8
	4.2. Brand classification	9
	4.2.1. Red Flag Assessment ("RFA")	9
	4.2.2. Brand classification process	10
	4.2.3. RFA transparency	11
	4.3. Brand compliance	12
	4.3.1. Lower-Focus Brands compliance	12
	4.3.2. Higher-Focus Brands compliance	13
	4.3.3. ISO 14001 and OHSAS 18001 / ISO 45001 certifications	15
	4.4. LME decision-making and grievance procedure	15
	4.5. Timeline	16
	4.6. LME powers	17
5.	CONCLUSION	19
6.	APPENDICES	20

1. EXECUTIVE SUMMARY

The LME occupies a privileged position in the global metals industry. Its brand lists determine which brands of metal can be delivered against LME contracts; and more broadly, many global physical supply contracts stipulate LME brands for delivery. Accordingly, the LME is able to work with global industry to ensure that its brand lists embody global expectations of best practice. For over a century, the LME has stipulated only metallurgical standards for its brands, and while the LME does not change its approach lightly, in 2017, it conducted a survey with all its listed brands to explore the possibility of embedding responsible sourcing principles into LME brand requirements.

Following on from this survey, on 5 October 2018, the LME released a position paper (“position paper”) outlining its proposals in respect of responsible sourcing. These proposals were designed to ensure that metal eligible for delivery against LME contracts (LME-listed brands) appropriately embodies the responsible sourcing standards expected by the global industry. The position paper provided the LME’s analysis in respect of the background and context of the global debate on responsible sourcing and explored work undertaken to date. It also outlined the LME’s rationale for taking action now, and included the results of the 2017-2018 responsible sourcing survey undertaken with the producers of all LME-listed brands. Finally, the paper asked for market feedback in respect of the proposal laid out for the incorporation of responsible sourcing standards within the LME’s existing physical specification requirements for listed brands.

The LME would like to thank the 39 market participants who provided written feedback to the position paper, as well as all those who contacted the LME and provided their ideas and thoughts through meetings and calls. The Exchange very much appreciates the time and effort taken by all those who contributed.

The LME has taken all the feedback received into careful consideration, and has today published a detailed analysis of this feedback in a report (the “position paper feedback report”) released via Notice 19/130, (“Next steps for LME responsible sourcing”). The position paper feedback report outlines the LME’s thinking in respect of the issues raised, explains what recommendations and suggestions it has incorporated into its original proposals – and equally those which it has not – and provides a rationale for both.

On the basis of this feedback, and the LME’s own analysis, the LME is now proposing to introduce responsible sourcing requirements for all brands listed for good delivery on the LME, and as such, is launching a formal market-wide consultation (“Responsible Sourcing Consultation” or “Consultation”). This paper, together with its associated appendices, constitutes this Consultation. The paper outlines the core features of the LME’s responsible sourcing proposals, as well as information on how to contact the LME in respect of the Consultation, and how to submit a formal response.

2. THE CONSULTATION PROCESS

2.1. Responding to the Consultation

The LME welcomes feedback to this Responsible Sourcing Consultation from all market participants and other interested parties, including regulatory and governmental bodies and civil society.

The Consultation will be open until 30 June 2019. During the period of the Consultation, the LME will, subject to reasonable logistical constraints, be available for meetings to discuss the subject matter of the Consultation. Any market participant wishing to arrange for further discussions or seeking clarification in relation to such, is asked to contact Hugo Brodie at responsiblesourcing@lme.com, or +44 20 7113 8766.

Formal responses to the Consultation should be submitted in writing and sent to the LME at responsiblesourcing@lme.com (or its postal address).

2.2. Elements of the Consultation

The LME seeks the views of the interested parties set out above on:

- (i) amendments to Part 7 of the Rules and Regulations of the LME (“LME Rulebook”);
- (ii) the LME Policy on Responsible Sourcing of LME-Listed Brands (“the Policy”); and
- (iii) the LME’s Red Flag Assessment Template (“LME RFA Template”).

Together the proposed changes to Part 7 of the LME Rulebook, the Policy and LME RFA Template constitute the LME’s responsible sourcing proposal (“Proposal”).

The LME’s proposal on a revision to Part 7 of the LME Rulebook is appended to this consultation paper in redline at Appendix A (the redline shows the proposed changes to Part 7 of the LME Rulebook), and a clean version with the proposed changes is set out at Appendix B. Appendix C sets out the Policy proposed by the LME. Appendix D sets out the LME RFA Template proposed by the LME.

For the avoidance of doubt, this consultation paper is intended to provide the background and rationale to the Proposal, but respondents to the Consultation should pay particular attention to the language of the documents constituting the Proposal.

The LME welcomes feedback on all of these elements, including the construction, and level of detail, of the LME RFA Template (as defined in this consultation paper).

2.3. Capitalised terms

Capitalised terms not otherwise defined in this consultation paper shall have the meaning ascribed to them in the Policy and capitalised terms not defined in this consultation paper or the Policy shall have the meaning ascribed to them in the LME Rulebook.

2.4. The consultation process, timing and steps following consultation

Responses made after the closing date of the Consultation will not be taken into consideration. The LME may need to share responses received with regulatory authorities, members of its group, and its legal or other professional advisers, or as required by law. Anonymised responses (verbatim or paraphrased) may be included in the Notice(s) stating the outcome of this Consultation. Apart from this, all responses received will be treated in confidence. All of the changes to the LME Rulebook detailed in this Consultation may be subject to regulatory approval before they can become effective.

Following due consideration, the LME may implement:

- (i) in respect of the Proposal, a modified version of the Proposal, an alternative to the Proposal, or no measure in respect of the Proposal;
- (ii) any other measure(s); or
- (iii) no measures.

Following the Consultation, the LME will advise the market, via one or more Notices, when changes to the LME Rulebook will take effect.

2.5. Benefits and unintended consequences

The LME acknowledges that there may be costs for interested parties in complying, or otherwise in connection with, the Proposal set out in this Consultation. However, the LME believes that the Proposal is justified and in the interests of the wider Membership and LME's markets. However, the LME is interested in the views of respondents to the Consultation in respect of benefits and unintended consequences.

3. FEATURES UNDERPINNING THE LME PROPOSAL

The LME outlined its core principles in respect of the responsible sourcing proposals in the position paper. On the basis of the insight gained through the position paper process, and through the LME's own analysis, the LME has further developed these principles to encapsulate fully the foundation of the LME's approach to responsible sourcing. As such, the following features underpin the LME's responsible sourcing initiative.

- **The twin tools of transparency and standards.** Transparency sits at the heart of the LME's strategy. The story of responsible sourcing has been led by consumers, and transparency allows consumers to understand the steps being taken by brands in respect of responsible sourcing. This is why the LME's proposals build on the core requirements of the Organisation for Economic Co-operation and Development ("OECD") Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas ("OECD Guidance") in requiring transparency from all brands, wherever they source their metal. This will motivate brands to go as far as possible in embracing ethical principles, as their consumer base will then recognise the additional steps taken and react in a positive manner.

The LME recognises that if it is to request transparency from its producers, then its producers must be able to trust that transparency will be used fairly. In particular, producers who embrace transparency should not feel that they will be disadvantaged by being open about their supply chain risks, while peers may not. Accordingly, the LME believes that a phased approach to transparency will provide time for the market to become accustomed to the reporting it can expect, which will in turn encourage all producers to embrace a fully-open approach, without fear of commercial disadvantage. Furthermore, the information to be made transparent must be meaningful and verifiable without being commercially prejudicial; this balance is at the heart of the LME's proposal.

However, the LME is also a market of standards. It believes that consumers of metal are entitled to a minimum standard – even if they do not themselves choose to analyse the metals which make up the supply chain of products that they consume. Accordingly, the LME believes that standards are a crucial element of its system. And while it understands that standards alone could lead to "greenwashing" and a lack of incentive to go beyond minimum standards, the LME believes that the combination of transparency and standards represents an optimised toolbox to protect consumers

- **No discrimination between large-scale and artisanal / small-scale mining.** The LME fundamentally respects the rights of communities to benefit from those mineral resources with which their land has been endowed. The LME believes that artisanal / small-scale mining, properly governed, can bring great development opportunities to disadvantaged communities.

Similarly, large-scale mining, properly governed, can bring significant economic benefit to the countries from which resources are extracted – which, appropriately distributed, can equally deliver economic empowerment.

Both forms of mining clearly carry differing, but equally important, risks. In acknowledging these risks, the LME does not favour any specific form of mining; rather, it acknowledges that risk assessments must be tailored to the circumstances. Therefore, the LME sets out to provide equally meaningful protections against risks arising from both large-scale and artisanal / small-scale mining.

This is particularly relevant in respect of transparency around large-scale mining, and the potential for financial crime arising from this activity. This is why the LME Red Flag Assessment (“RFA”) will require producers to confirm whether they facilitate the disclosure of potential financial crime and corruption risks under the Extractive Industries Transparency Initiative (“EITI”), thus addressing one of the key concerns in respect of large-scale mining. Twinned with the well-established application of OECD requirements to artisanal / small-scale mining risks, the LME intends to achieve an equitable balance which does not disadvantage any route of economic empowerment

- **Well-established work in the sector.** A huge amount of work has already been undertaken in the responsible sourcing space. The LME wishes to build on this and provide a framework by which the industry can benefit from this investment.

In particular, the LME’s approach is grounded in the OECD Guidance, the most globally-relevant approach to responsible sourcing. This then allows brands to make use of existing standards (defined by industry bodies, commercial entities and others). And because these standards define audit approaches, the most appropriate auditors will be positioned to assess compliance.

The first step is the OECD red flag identification process, which provides a consistent and widely accepted model to identify metal brands which may require higher focus due to the specific nature of their operations. By using the red flag model – but enhancing it both by providing a specific template, and by adding transparency above and beyond the core OECD requirements – the LME is embracing global best practice, and indeed, advancing it.

In this respect, the LME intends to play a positive role where it is able to most add value; namely, in the identification and embedding of transparency principles and standards. The LME does not intend to define or audit those standards, since others are better placed to undertake this role. Rather, the LME’s rules provide the framework within which standard definition and auditing can be undertaken on a consistent and fair basis

- **A pragmatic and clear process.** In order to be meaningful, the LME understands that its approach must be feasible for global producers of all metals. As such, it must ensure that its requirements (in respect of both transparency and standards) are clear and achievable.

At the heart of this is the LME’s RFA Template. The LME recognises that many models exist for identifying OECD red flags, and wishes to build on these. At the same time, and particularly given its commitment to transparency, the LME feels it is important for its listed brands to provide a subset of common disclosure, on a standard-form template, which can then be made available to the broader market. This form is designed to be easily completed by any brand having undertaken any existing OECD red flag assessment, and to provide a degree of public disclosure which will encourage challenge, but not compromise commercial confidentiality

4. LME PROPOSAL

4.1. Overview

As outlined above, the LME's approach is based on the OECD Guidance. However, the LME has adopted a broad interpretation of this in several key aspects:

- **Application of 3T principles to all LME brands.** The LME is adopting the OECD red flags for all base metals brands. The red flags are defined in the OECD Supplement on Tin, Tantalum and Tungsten ("3T") – but the LME believes this can and should apply to all base metals. More broadly, the LME believes that all OECD requirements for 3Ts should apply to all base metals, and hence LME brands
- **Utilisation of the broadest assessment of risk indicators for CAHRAs.** A key element of the red flag assessment is the identification of conflict-affected and high-risk areas ("CAHRAs"). The LME believes that it should take a broad definition of CAHRAs, so as to ensure that the widest range of possible risks is captured, rather than focussing simply on countries plagued by overt conflict. In particular, the LME utilises the definition of CAHRAs in the OECD Supplement on Gold, which provides the most comprehensive assessment of risk indicators for CAHRAs
- **Commitment to transparency for all brands.** The OECD Guidance may be interpreted to suggest that transparency (Step 5 of the OECD Five-Step Framework) is only required when the red flags are engaged. But the LME believes that, per its commitment to transparency, all LME brands should provide this, in the form of publishing their LME RFA Template on a phased timeline, including Extractive Industries Transparency Initiative ("EITI") disclosure as to potential financial crime risks
- **Commitment to environmental and workplace health and safety standards.** In the first instance, the LME expects brands to work towards ISO 14001 and OHSAS 18001 standards, or equivalent.

The LME fully recognises that there exists a full spectrum of responsible sourcing concerns, and the LME's proposal incorporates only a sub-section of these on the basis of (i) their relevance to the LME market, and (ii) which have seen the most significant demand from its core stakeholders. That said, the LME does recognise that for many of its listed brands, a broader, or indeed, alternative set of concerns represent greater risk than those outlined in the OECD Guidance; further, that much work has been undertaken in order to identify these risks, and to implement standards and associated certification programmes for the mitigation of such.

Much of this work has focused on environmental concerns, and the LME dealt with this question in depth in Section 2.1 of the position paper feedback report. While the LME is not proposing to change its core scope in respect of environmental issues, it is continuing with the implementation of ISO 14001 as an interim measure as planned, and more broadly, also incorporating the OHSAS 18001 in respect of workplace health and safety standards

In view of the above, the LME believes that it would be fair to characterise its responsible sourcing framework as an interaction (as set out in Figure 1) between the core features outlined in Section 3 above, and its application of the existing responsible sourcing initiatives.

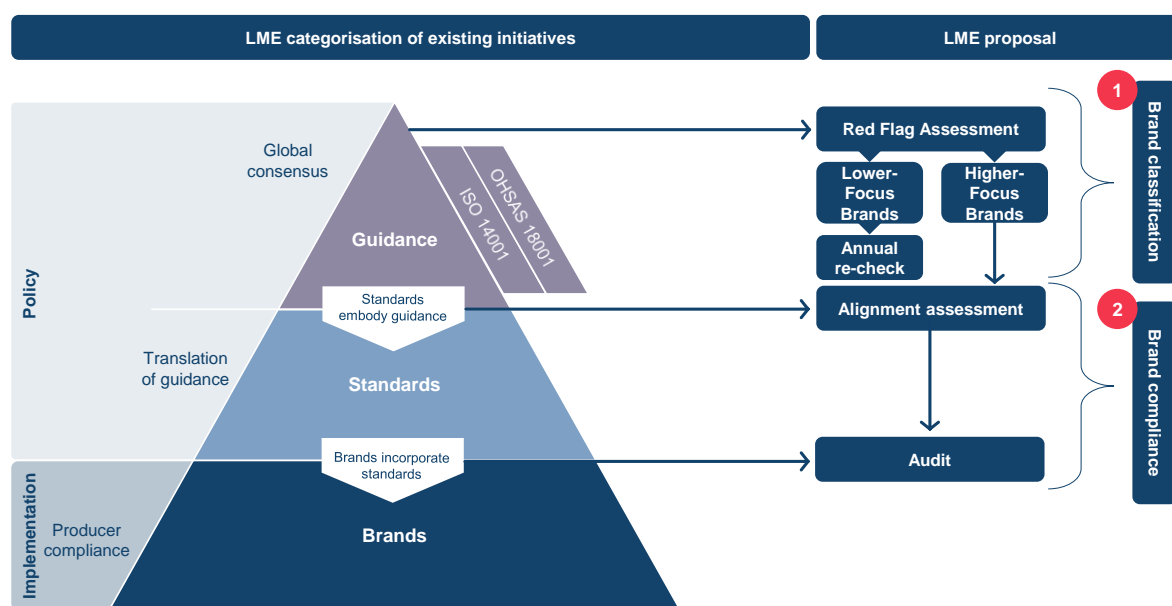


Figure 1: LME proposed framework for responsible sourcing

At both the brand classification and brand compliance steps, the LME will assess the compliance of brands with the relevant requirements, and will have the power to take “Brand Action” (as more fully defined in Section 4.6) in the case of brands which are non-compliant. The proposed deadlines for each step are set out in Section 4.5.

4.2. Brand classification

At the outset, the LME recognises that the risk profile of its metals varies – each of the LME’s listed brands will have specific features which militate for greater diligence as to individual responsible sourcing practices – and, as such, it is appropriate for the LME to adopt a risk-based methodology to assess the focus which should apply to the listed brands of each metal.

To this end, the first step of the LME’s responsible sourcing requirements will be for all LME-listed brands¹ to complete the LME’s RFA Template, based on the OECD’s red flags, in order to be appropriately classified as higher- or lower-focus in respect of responsible sourcing concerns. This classification will then delineate the route forward for each LME-listed brand, including next steps.

4.2.1. Red Flag Assessment (“RFA”)

The LME understands that a multiplicity of OECD-aligned RFA processes already exist within the world of responsible sourcing standards. Further, the LME is aware that, while many of these have been designed to address a particular issue, or the specificities of a particular metal, that their primary aim is to translate the high-level OECD Guidance (or similar such guidance) into a practical form that allows producers or other interested parties to map the risks associated with a particular supply chain.

However, the proliferation of such standards means that there is some confusion as to what would be considered core for an OECD RFA generally, and for the purposes of the LME’s

¹ LME-listed brands of all physically settled contracts including primary aluminium, aluminium alloy, North American Special Aluminium Alloy (“NASAAC”), cobalt, copper, lead, nickel, tin, and zinc

requirements specifically. Accordingly, feedback to the position paper suggested that further clarity in respect of the LME's RFA process would be welcome.

In order to facilitate this process, to ensure consistency of reporting, and in line with the LME's commitment to the principle of practicality as outlined in Section 3, the LME has produced a template for the RFA which is attached to this report at Appendix D. This template delineates the information which the LME would expect to receive as part of an RFA.

In producing this template, the LME has been mindful of the fact that many brands will already participate in similar processes, either independently or under the auspices of a standards body. Although the LME is conscious that in asking producers to complete its own RFA template, it is adding to the reporting requirements already experienced by most, if not all its producers, it is the LME's expectation that much of the information required for the LME process will be a repeat of that collated by those brands which already undertake similar reporting. As such, the LME's understanding is that it should be straightforward for its brands to "read across" the relevant information to this template.

While the LME's expectation is that the RFA process is undertaken internally by producers of a listed brand, it is equally possible that producers will choose to have this information collated and reported to the LME by an independent third party commissioned for that purpose. The LME believes that both models would be compliant with its RFA requirements; however, it would note that regardless of route chosen, the producer itself will remain wholly accountable for both the submission, and the accuracy of the reporting contained therein.

4.2.2. Brand classification process

Once the RFA is complete, the LME will require the submission of the RFA template to its Physical Operations team for review and ratification by the LME. It may be necessary for the LME to revert to the brand producer with questions or clarificatory requests following an initial review.

In line with the process diagram outlined in Figure 2, the LME will either confirm the producer's assessment of its classification, or reject it and re-classify. If the producer does not agree with the LME's reclassification, the LME will engage with that producer to fully understand, and resolve, the discrepancy of assessment.

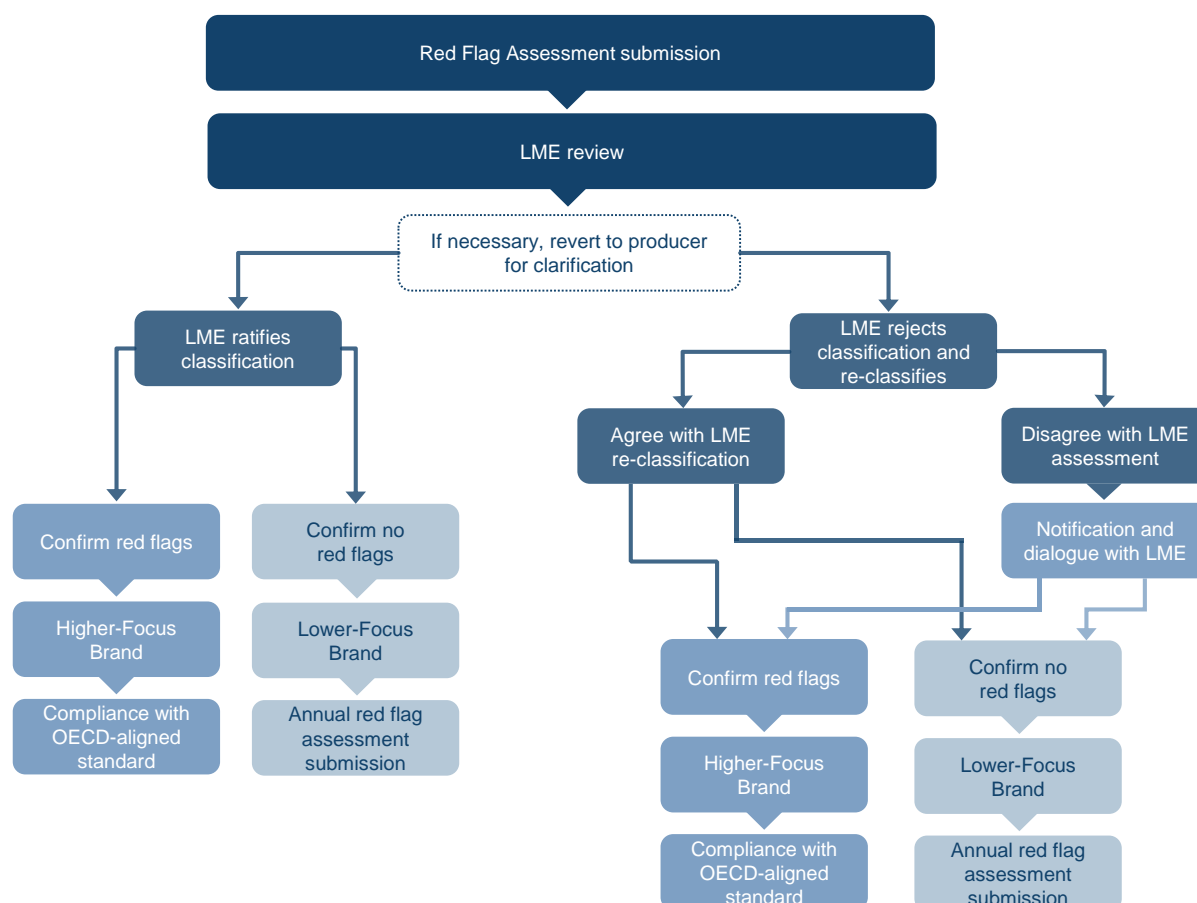


Figure 2: Brand classification review process

Based on the above logic, brands would then be divided into two groups:

- **Higher-Focus Brands**, i.e. all brands of metal where the RFA raises potential elevated risk factors as to responsible sourcing. These brands will be required to adopt a standard (internal or external) which has been assessed as being aligned with the OECD Guidance, and audit their compliance to that standard. The process for both the alignment assessment and audit is outlined further below in Section 4.3
- **Lower-Focus Brands**, i.e. brands of metal where the RFA has not raised potential elevated risk factors. These are, therefore, brands considered to be at lower risk in respect of responsible sourcing concerns, and as such, will not be required to undertake formal standards or brands compliance by the LME. However, given the ongoing evolution of the responsible sourcing universe, these brands would be expected to re-assess their classification (via the LME RFA Template) on an annual basis, as outlined in Section 4.3 below

The LME will work with all its brands to ensure that they are correctly classified. Any brands not engaging with the classification process may be subject to Brand Action as defined in Section 4.6.

4.2.3. RFA transparency

The final aspect of the RFA classification process relates to the transparency of the RFA results.

In respect of public access to the results of the RFAs, the LME has worked to define a template which appropriately balances the competing priorities of sufficient transparency to afford genuine insight into, and assessment of, supply chains, without requiring the release of commercially sensitive or confidential information. The LME is also conscious that in providing reporting on responsible sourcing risks, it will be the first such Exchange to do so and, as a result, there is a process of education and familiarisation for its market in understanding and interpreting this information.

To address this concern, the LME is proposing a phased approach in respect of RFA public reporting, as outlined in Figure 3.

Pathway to transparency		
Date	Red Flag Assessment results	
31 December 2020	Y1	Summary statistics
31 December 2021	Y2	Summary statistics
31 December 2022	Y3	Anonymous versions
31 December 2023	Y4	Anonymous versions
31 December 2024	Y5	Attributed versions
31 December of subsequent years	Y6 and onwards	Attributed versions

Figure 3: LME pathway to RFA transparency

For the first two years post-implementation, the LME will publish only summary statistics of the RFAs. For the subsequent two years, the LME will publish the RFAs in full, but on an anonymised basis. As well as protecting those brands reporting openly on the risks they have identified in their supply chains, this will also allow brands to refer to the work undertaken in the RFA processes of other LME-listed brands, as well as providing time for the market more broadly to become familiar with the type of reporting it can expect to see and become accustomed to the idea that higher-focus does not, by definition, mean problematic. In year five post-implementation, the LME will require all brands to publish the RFAs in full.

4.3. Brand compliance

Following the brand classification process described in Section 4.2, all LME-listed brands will be required to comply with the requirements relevant for their classification as Higher- or Lower-Focus Brands.

4.3.1. Lower-Focus Brands compliance

As set out above, Lower-Focus Brands will not be required to undertake an audit against a standard. However, all brands confirmed as lower-focus will be required to re-undertake an RFA on an annual basis to ensure that their risk profile has not changed over the preceding year, or indeed, that they do not require a reclassification to the higher-risk category. The LME will review all such assessments to confirm its agreement with the resulting classification.

Lower-Focus Brands will also be required to comply with the ISO / OHSAS requirements outlined in Section 4.3.3.

4.3.2. Higher-Focus Brands compliance

Higher-Focus Brands will be expected to undertake the following steps:

- **Identify a standard.** The producer of a Higher-Focus Brand will need to identify the standard towards which they are working to align their brand. Standards may be internal or external, and the LME believes that either may be used for the purposes of its responsible sourcing framework
- **Ensure the standard has undergone OECD alignment assessment.** The producer's chosen standard must be aligned with the OECD Guidance. As noted in the position paper, the LME is aware that alignment assessment is not a "binary" process – the LME acknowledges that alignment assessment audit results will be qualified in places and accordingly, there will always be an element of discretion which must be applied by a relevant authority. The LME accepts its responsibility to make these judgement calls (advised by market experts if required) in determining whether to accept as "successful" the outcome of a particular alignment assessment process.

In the case of an external standard, the body owning that standard would be expected to arrange for the relevant alignment assessment. It is expected that a producer would look to achieve this assurance before pursuing the standard in question.

In the case of an internal standard, the producer itself would need to make such arrangements. The producer may look to undertake the alignment assessment in parallel with its implementation work in respect of the standard, acknowledging that any changes to the internal standard arising from the alignment assessment process will also need to be reflected in the implementation workstream.

But in either event, the producer of the relevant brand is responsible for ensuring that it has elected a standard which is successfully OECD alignment assessed and that the results of such confirmation have been approved by the LME. The LME proposes to maintain a list of recognised OECD alignment assessors who, in the opinion of the LME, are competent to undertake an alignment assessment and would proposed to publish this list on the LME website. Similarly, the LME would also propose to maintain a list on its website of standards which have been confirmed by the LME as alignment assessed, subject to the consent of the relevant standard owners.

Of course, the LME recognises that many brands are already working to mitigate any responsible sourcing concerns associated with their brand through compliance with existing external standards. The LME is also conscious that many of these standards have set the scope of their criteria far more broadly than the LME itself, and as such, their members will be "over-achieving" in terms of the LME's requirements. Accordingly, the LME intends to work with such standards where possible to provide an "LME accreditation level" to avoid both duplication of assessments, and producers avoiding existing standards because the scope is more extensive than that required by the LME.

Finally, the LME is also conscious that for some metals, specific standards are either still in development, or do not yet exist at all. The LME's timelines as outlined in this report, specifically in Section 4.5 below, are premised on such standards being available, but the LME remains aware that it may have to reassess these requirements should appropriate

standards not be widely available to the market sufficiently in advance of the LME's deadlines to allow brands to achieve compliance

- **Demonstrate initial compliance with the standard.** The producer's elected standard will specify the requirements for audit, and the producer will hence be expected to comply. In the case of an external standard, the standard itself may lay out a review process through which the audit will have to pass. In the case of an internal standard, such a review process is unlikely to form part of the standard, and the output of the audit will hence represent the final stage in the process. But in either event, the ultimate decision will need to rest with the LME (advised, where appropriate, by market experts)
- **Demonstrate ongoing compliance with the standard.** Again, the producer's elected standard will specify the requirements for updating or repeating the audit process, and must be followed to ensure ongoing compliance with the LME's responsible sourcing requirements. For internal standards, the LME will require the brands to re-submit audit reporting every two years to confirm ongoing compliance. All related audit documents must be submitted to the LME

This process is outlined in Figure 4.

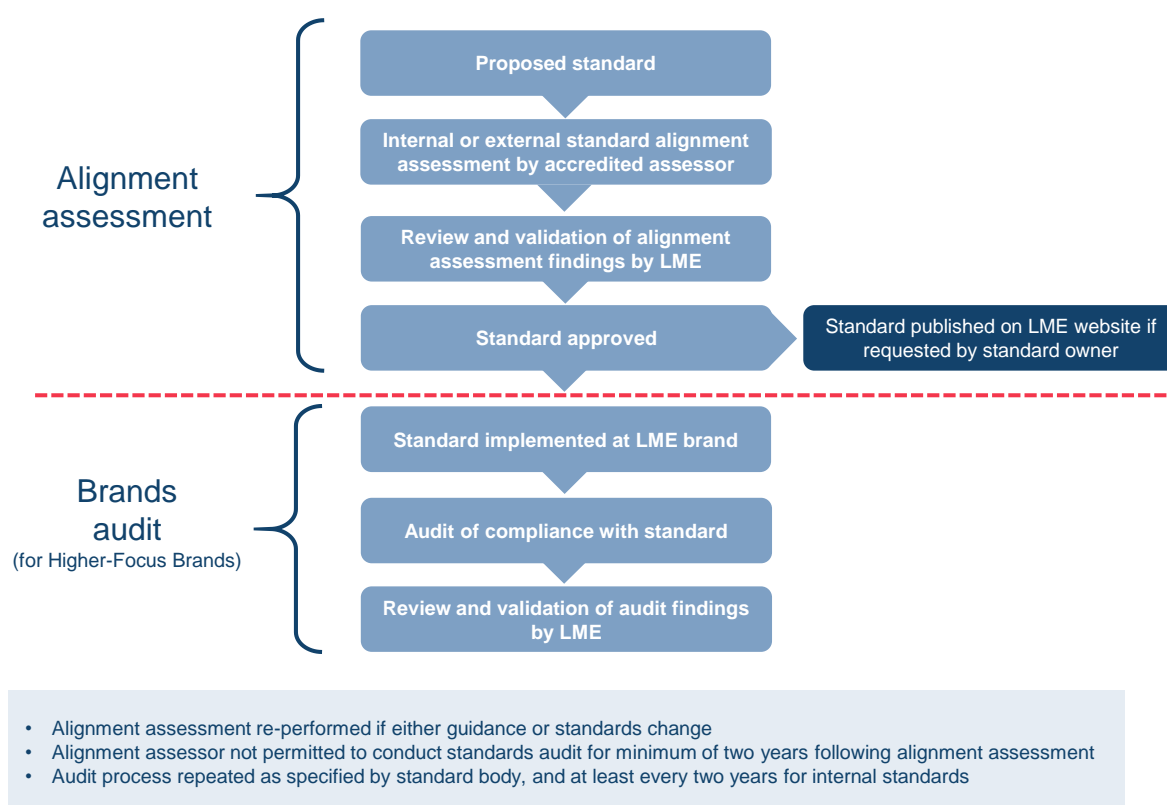


Figure 4: LME process for Higher-Focus Brand compliance

In terms of transparency of Higher-Focus Brands compliance, as outlined above, the LME intends to provide immediate clarity in terms of which standards have been successfully deemed to be aligned with the OECD Guidance (subject to the consent of the standard owner) by publishing such names on its website.

In respect of transparency of the audit results, the LME believes that this should be undertaken in line with the requirements outlined in Step 5 of the OECD Guidance 3T supplement five-step

framework. Audits in respect of standards will be therefore be published in accordance with the requirements as set out under that standard.

Finally, as with Lower-Focus Brands, Higher-Focus brands will also be required to comply with the LME's ISO / OHSAS requirements outlined in Section 4.3.3.

4.3.3. ISO 14001 and OHSAS 18001 / ISO 45001 certifications

In parallel to brand classification and brand compliance, all LME-listed brands will be expected to obtain ISO 14001 and OHSAS 18001 / ISO 45001 certifications², or equivalent.

This requirement will be administered in a similar manner to the LME's existing ISO 9001 requirement, in that producers will be required to provide the appropriate certificates and keep these updated in line with the requirements of the standards body.

Should a brand wish to use a certification programme (internal or external) which they consider to be equivalent to, or an improvement upon, the ISO 14001 or OHSAS 18001 / ISO 45001 certifications, the brand should submit an independent, third party audit report which assesses and confirms such equivalence. In the case of an external certification programme, assessment need only be commissioned once; as such, the LME anticipates that a certification programme owner (or users of that certification programme) would commission such assessment. Once the LME has confirmed equivalence, it will publish a list of appropriate certification programmes on its website, subject to the consent of the certification programme owner.

At any stage, a brand failing to undertake required actions (at the times specified by the LME's implementation timeline, as further set out in Section 4.5) may be subject to Brand Action (as defined in Section 4.6).

4.4. LME decision-making and grievance procedure

As noted further in the position paper, a fundamental limitation on the global adoption of responsible sourcing standards is the international nature of metal supply chains, and the consequent lack of a "central authority" with the ability to enforce standards on a worldwide basis. For this reason, in formulating its responsible sourcing proposals, the LME has had to take on a role of recognising alignment assessors, auditors for internal standards, ratifying RFA results, assessing the sufficiency of the alignment assessment of standards, the final check of audit reports of Higher-Focus brands, and the equivalence of certification programmes. While the LME is comfortable playing such a role (which it already does in respect of the final assessment of the metallurgical quality of its brands, informed in that case by assaying and other assurance processes), the Exchange also recognises that there will be differing market views on these topics, and it will not always be possible to reach decisions which are accepted by all market actors. However, in the absence of another body willing to undertake such a role (and enjoying the confidence of the market so to do), the LME believes that it will need to act as the ultimate arbiter of these issues.

² The International Organization for Standardization is in the process of replacing OHSAS 18001 with the first global occupational health and safety management system – ISO 45001. Organisations are expected to migrate to ISO 45001 over the next three years and the LME will monitor this transition with its brand producers. For more information, see <https://www.iso.org/iso-45001-occupational-health-and-safety.html>

Should it prove necessary and appropriate, the LME will ensure that it has access to appropriate industry experts to support and advise on such decision making.

Furthermore, and in order to facilitate engagement from as broad a set of stakeholders as possible, the LME does propose a “grievance procedure”, under which any market actor having concerns as to the responsible sourcing credentials of a particular brand may report these concerns to the LME, on a confidential basis. Having received a submission of this nature, the LME will assess the stated grievance against the information provided by the brand (including, but not limited to, its RFA, and its audit reports if applicable). The LME’s powers in respect of probing RFAs will include compelling producers to undertake an independent audit of disputed facts. In the event of a grievance in respect of a brand’s audit against an internal or external OECD-aligned standard, in the first instance the LME would expect to refer this back to the auditor or the standard body respectively.

4.5. Timeline

The LME’s proposed timeline is outlined below, amended from the original proposals to allow sufficient time for both the RFA process, and standard development for metals not currently served by such standards. The LME believes that this timeline will allow it to deliver a robust and sustainable responsible sourcing framework.

The key checkpoints in respect of the pathway to responsible sourcing compliance are as follows:

- **Submission of the RFA.** This is the date by which producers must have submitted to the LME, for each brand, their LME RFA Template, including their assessment of whether the brand is a Higher- or Lower Focus Brand
- **Identification of proposed standard.** In respect of Higher-Focus Brands, this is the date by which producers must have informed the LME of the standard with which they intend to comply
- **Standard to be accepted as a recognised alignment-assessed standard.** In respect of Higher-Focus Brands, this is the date by which identified standards (internal or external) must have successfully (in the assessment of the LME) undergone a successful alignment assessment against the OECD Guidance. The LME recognises that certain standards have already been through the OECD-alignment process as part of the OECD pilot programme, and confirms that it will be willing to assess alignment on the basis of the reports produced for this purpose
- **Audit of brand to standard to be completed.** In respect of Higher-Focus Brands, this is the date by which brands must have successfully (in the assessment of the LME) undergone an audit to demonstrate compliance with their nominated (and alignment-assessed) standards
- **ISO 14001 and OHSAS 18001 / ISO 45001 (or equivalent certification programme) certifications date.** In respect of all brands, this is the date by which ISO 14001 and OHSAS 18001 / ISO 45001 certifications must be provided to the LME. Standards being submitted as equivalent to either ISO 14001 or OHSAS 18001 / ISO 45001 will be expected to have been accepted as equivalent before this date, having successfully undergone an external, third party audit, and been confirmed as such by the LME

The proposed dates for brands listed on the LME before 31 December 2020 (and which are initially categorised as Higher-Focus Brands) are set out in Figure 5. However, the LME recognises that there are a number of cases where this timeline needs to be adapted, such as brands listed after 31

December 2020, or brands which are reclassified as Higher-Focus after the implementation of the LME's responsible sourcing requirements. The expectations for these brands are detailed in the Policy attached to this consultation at Appendix C.

Implementation and compliance	
Action	Deadline
Submission of LME RFA Template	31 December 2020 (updated by every subsequent 31 December)
Identification of proposed Standard	31 December 2021
Standard to be accepted as Recognised Alignment-Assessed Standard	30 June 2022
Audit of Brand to Standard to be completed	31 December 2022 (and updated on timeline prescribed by Standard)
ISO 14001 and OHSAS 18001 / ISO 45001 (or Equivalent Certification Programmes) certifications to be completed	31 December 2022 (Certification Programmes to be accepted as Equivalent Certification Programmes by this date) (and updated on timeline prescribed by Certification Programmes)

Figure 5: Proposed LME timeline

4.6. LME powers

Given the LME's desire to achieve a responsible sourcing model through cooperation with its producer community, it may be appropriate in the first instance for action to be transparency-based – that is to say, the LME publishing details of brands which have failed to meet certain deadlines. The LME's willingness to take such action will be partially informed by the market consequences; it may, for example, be inappropriate to publish such information if the effect would be to cause such brand to trade at a discount in the market, which could itself impact the integrity of pricing on the LME market.

Ultimately, and if a consensual approach has proved ineffective, the LME's core power is to suspend or delist brands. In either case, the effect would be that no further material of the specific brand could be warranted (or re-warranted) in the LME network. The decision whether to suspend or delist would be informed primarily by the LME's assessment as to whether it were possible for the brand in question to return to a state of compliance, in which case the suspension could be lifted. If this seems unlikely, then a full delisting may be more appropriate.

The mechanism by which the LME would effect a suspension or delisting would, necessarily, depend on the circumstances. In general, the LME aims to give advance notice of a delisting in order to allow the market a period of time (generally three months) to place residual off-warrant stock into the warehouse. However, in the event that this might create a disorderly market – for example, the inflow of significant quantities of lower-quality material into warehouse during the notice period – the LME does have the right to suspend or delist without notice. This is particularly relevant in the context of responsible sourcing whereby a brand which has not made the necessary efforts to meet relevant standards may trade at a significant discount to the broader metal market. This, therefore, may give metal owners a strong incentive to “dump” metal of that brand onto warrant prior to a suspension or delisting. The market should, therefore, be prepared to accept the possibility of an immediate suspension or delisting.

While the LME accepts that a greater degree of certainty in respect of timelines for these processes would provide greater clarity to the market, the LME does believe that in order to act in a fair manner and to mitigate the risks of creating a disorderly market, it does need to reserve the right to make decisions on a case by case basis.

A second question is whether, in the event of a brand being delisted due to non-compliance with relevant responsible sourcing standards, stock of that brand already on-warrant would need to be removed. It is in the nature of the LME's warehousing and warranting model that metal on-warrant may have been produced some time ago. Given that the LME's current understanding is that the market views responsible sourcing as a more recent initiative, it is understood that legacy metal may not have been produced under the same responsible sourcing construct. Accordingly, the LME's base case intention is that it would not be necessary to remove historical metal on the basis that it was not mined in conformance with responsible sourcing principles at the time of production (given that the LME's responsible sourcing requirements would not have been in force at that time). This would apply to any metal on warrant at the time of the announcement of a delisting or suspension. However, on this topic, the LME does again propose to retain flexibility such that it is able to take a view on a case by case basis, subject to overarching objective criteria.

For the purposes of this document, the LME refers to "Brand Action" to refer to any action of disclosure, suspension or delisting (with or without the removal or stock in warehouse, and with or without a notice period) taken pursuant to the above powers.

5. CONCLUSION

The LME is committed to ensure that its listed brands are consistent with globally accepted standards for responsible sourcing, and believes that the proposals defined above represent a fair and practical route forward for the implementation of such requirements for LME-listed brands. The LME would like to thank all its stakeholders and other market participants who have contributed towards the LME's process in defining its proposals thus far, and looks forward to receiving further views in respect of this Consultation.

6. APPENDICES

- Appendix A: Proposed changes to Part 7 of the LME Rulebook – redline
- Appendix B: Proposed changes to Part 7 of the LME Rulebook – clean
- Appendix C: Proposed LME Policy on Responsible Sourcing of LME-Listed Brands
- Appendix D: Proposed LME Red Flag Assessment Template

PART 7: REQUIREMENTS FOR THE LISTING OF BRANDS

1. Applications for Listing

~~1.~~ Where applicable, an application for listing a brand must be submitted on behalf of the producer through a ~~Member Company, Categories~~ Category 1 to, 2, 3, 4 or 5 Member.

2. Guidance Notes for Listing of Brands (Quality Standards)

~~2.~~ -Guidance Notes for listing of brands of each metal are available on the LME website or from the Executive of the Exchange. Applicants should not proceed with an application prior to reading the applicable guidance notes.

The general procedures outlined in the Guidance Notes include the following requirements:-

- 2.1 Except in the case of molybdenum and steel, that the producer supplies a written undertaking that:
 - (a) the brand to be listed will conform to the quality of the applicable Special Contract Rules for Metals and that such quality will be maintained in accordance with the lots supplied for testing purposes (see 2.2 below). ~~Also;~~ and
 - (b) that a producer will undertake to investigate any complaints as to the quality of the brand without time limit.
- 2.2 That testing of commercial quantities of the metal be undertaken by Exchange approved fabricators who will provide the Exchange with information as to metal quality, suitability and compliance with the applicable Special Contract Rules for Metals.
- 2.3 That a fee is paid to the Exchange for the listing of a brand.

3. LME Policy on Responsible Sourcing of Listed Brands

The listing of a brand shall also be subject to the application of the LME's Policy on Responsible Sourcing of Listed Brands.

4. Changes to Brands, Suspension and Delisting

- ~~3.~~(a) Subsequent to listing any alteration or addition to the details given at the time of listing by the producer are to be notified to the Exchange. A brand may be suspended from listing or delisted at the discretion of the Directors if any such changes are not notified to the Exchange promptly or if there are changes in the information given at the time of listing which the Directors consider to be material or if the producer fails to comply with any undertaking given to the Exchange.
- ~~4.~~(b) Brands may be listed, suspended or delisted at the discretion of the Directors, who are entitled to make such investigations into the producer as they may deem appropriate at any time before, during or after the application for listing. No listing shall become valid until particulars of the brand concerned have been posted on the Exchange for 28 days.
- (c) In addition to Regulations 4(a) and (b) above, brands may also be listed, suspended or delisted by the Directors, subject to and in accordance with the LME's Policy on Responsible Sourcing of Listed Brands.

5. Complaints about Brands

- ~~5.~~(a) Any complaint as to the quality of any listed brand should be made to the Complaints Officer of the Exchange. Should the Chief Executive think it appropriate, he may report to the Directors who may suspend deliveries onto warrant until quality is proven to the satisfaction of the Directors. If after investigation by the Complaints Officer the Directors are not satisfied with the quality of the listed brand, then the brand may be delisted at the discretion of the Directors.
- (b) Any complaint about the compliance of a brand with the requirements of the LME's Policy on Responsible Sourcing of Listed Brands should be made in accordance with, and shall be dealt with by the LME in accordance with, the requirements of that policy.

6. Compliance with Requirements

- ~~6.~~ The Directors may, at their discretion, waive or amend any of the listing requirements. Producers must comply with this Part of the Rules and Regulations, the listing requirements, and the LME's Policy on Responsible Sourcing of Listed Brands, as well as with any variations to those and with any applicable Administrative Procedures issued by the Exchange.

7. Limitation on LME's Liability

- ~~7.~~ Neither the Company nor any of its Directors or other officers shall be under any liability whatsoever either in contract or in tort to any Member or other person in respect of any act or omission in relation to the listing of any brand of metal or the maintenance, suspension or termination of any such listing.

PART 7: REQUIREMENTS FOR THE LISTING OF BRANDS

1. Applications for Listing

Where applicable, an application for listing a brand must be submitted on behalf of the producer through a Category 1, 2, 3, 4 or 5 Member.

2. Guidance Notes for Listing of Brands (Quality Standards)

Guidance Notes for listing of brands of each metal are available on the LME website or from the Executive of the Exchange. Applicants should not proceed with an application prior to reading the applicable guidance notes.

The general procedures outlined in the Guidance Notes include the following requirements:-

- 2.1 Except in the case of molybdenum and steel that the producer supplies a written undertaking that:
 - (a) the brand to be listed will conform to the quality of the applicable Special Contract Rules for Metals and that such quality will be maintained in accordance with the lots supplied for testing purposes (see 2.2 below); and
 - (b) that a producer will undertake to investigate any complaints as to the quality of the brand without time limit.
- 2.2 That testing of commercial quantities of the metal be undertaken by Exchange approved fabricators who will provide the Exchange with information as to metal quality, suitability and compliance with the applicable Special Contract Rules for Metals.
- 2.3 That a fee is paid to the Exchange for the listing of a brand.

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The listing of a brand shall also be subject to the application of the LME's Policy on Responsible Sourcing of Listed Brands.

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- (b) Brands may be listed, suspended or delisted at the discretion of the Directors, who are entitled to make such investigations into the producer as they may deem appropriate at any time before, during or after the application for listing. No listing shall become valid until particulars of the brand concerned have been posted on the Exchange for 28 days.

- (c) In addition to Regulations 4(a) and (b) above, brands may also be listed, suspended or delisted by the Directors, subject to and in accordance with the LME's Policy on Responsible Sourcing of Listed Brands.

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- (b) Any complaint about the compliance of a brand with the requirements of the LME's Policy on Responsible Sourcing of Listed Brands should be made in accordance with, and shall be dealt with by the LME in accordance with, the requirements of that policy.

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7. Limitation on LME's Liability

Neither the Company nor any of its Directors or other officers shall be under any liability whatsoever either in contract or in tort to any Member or other person in respect of any act or omission in relation to the listing of any brand of metal or the maintenance, suspension or termination of any such listing.



LME Policy on Responsible Sourcing of LME-Listed Brands

THE LONDON METAL EXCHANGE

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Registered in England no 2128666. Registered office as above.

LME.COM

1 Summary

- 1.1 This Policy sets out the basis on which The London Metal Exchange ("**the LME**") will determine whether a Brand is compliant with the LME's standards for the responsible sourcing of metals admitted to trading on the LME.
- 1.2 This Policy sets out:
- (a) the general requirements that the LME will apply to determine whether and how to list a Brand, having regard to the LME's interests in promoting the responsible sourcing of Metals (Paragraph 2);
 - (b) the categories that the LME shall apply to listed Brands, and the basis on which such categories shall be determined (Paragraph 3);
 - (c) the schedule that the LME shall apply following the implementation of this Policy, in order to increase the level of public transparency regarding the basis on which the LME listed Brands have been assessed for purposes of responsible sourcing (Paragraph 4);
 - (d) the requirements to be applied in respect of Lower-Focus Brands (Paragraph 5);
 - (e) the requirements to be applied in respect of Higher-Focus Brands (Paragraph 6);
 - (f) the technical standards to be applied in respect of all Brands listed by the LME (Paragraph 7);
 - (g) the LME's approach to the recognition of Standards, Certification Programmes, Alignment Assessors and Auditors (Paragraph 8);
 - (h) the action that the LME may take in respect of any Brand that is not compliant with any requirement of this Policy (Paragraph 9);
 - (i) the basis on which the LME may use or disclose information obtained from Producers pursuant to the arrangements described in this Policy (Paragraph 10);
 - (j) the ability of persons to raise responsible-sourcing related grievances in respect of any listed Brand (Paragraph 11);
 - (k) the LME's own-initiative powers to conduct investigations into a Brand's compliance with this Policy (Paragraph 12);
 - (l) the process that the LME shall apply in respect of any grievance or own-initiative investigation, and requirements for Producers to co-operate with such investigations (Paragraph 13);
 - (m) an illustrative, indicative, timeline for the actions to be taken under this Policy (Paragraph 14);
 - (n) how this Policy may be changed from time to time (Paragraph 15); and
 - (o) a glossary of defined terms used in this Policy (Paragraph 16).



- 1.3 Terms which are used in this Policy are defined in Paragraph 13 of this Policy. Terms not otherwise defined in this Policy shall have the meaning ascribed to them in the LME's Rulebook (as amended from time to time) available on the Exchange's website at: <https://www.lme.com/regulation/rules/rulebook/> (the "**Rules**").

This Policy shall be "*LME's Policy on Responsible Sourcing of Listed Brands*", for the purpose of Part 7 of the Rules.

References to "**Paragraphs**" refer to the paragraphs of this Policy. References to "**Regulations**" in this Policy are references to the regulations of the Rules unless otherwise stated.

2 General Requirements

- 2.1 A Metal may only be listed as a Brand where the LME determines that it shall be listed in accordance with this Policy.
- 2.2 The LME may determine that a Metal shall be listed in accordance with this Policy where:
- (a) either:
 - (i) the LME has determined that the Brand is a Lower-Focus Brand and the Brand complies with the requirements set out in Paragraph 5 (*Requirements for Lower-Focus Brands*); or
 - (ii) the LME has determined that the Brand is a Higher-Focus Brand and the Brand complies with the requirements set out in Paragraph 6 (*Requirements for Higher-Focus Brands*); and
 - (b) the Producer complies with all other requirements applicable to a Producer set out in this Policy; and
 - (c) the Producer complies with any other reasonable requirements notified by the LME from time to time.
- 2.3 Where the LME considers that any of the requirements of this Policy are not satisfied in respect of a Brand, the LME may take any of the actions specified in Paragraph 9 (*The LME's Powers to take Brand Action*) in relation to such Brand, subject to and in accordance with the requirements of that Paragraph.
- 2.4 In the event that a Producer or any other person (an "**Objecting Party**") disagrees with the LME's determination of any matter under this Policy, such Objecting Party may notify the LME in writing of such disagreement. Provided that such notification is received by the LME within 1 month of the LME's relevant determination, the LME shall liaise with the Objecting Party in order to understand and consider the Objecting Party's concerns and, where practicable, prior to such determination becoming effective. However, for the avoidance of doubt, any person's (including any Producer's) obligations in respect of the matters subject to determination shall be unchanged in the event that the LME maintains its original determination. For the avoidance of doubt, the process described in this Paragraph 2.4 shall be separate from, and shall not involve the application of, the complaints-handling processes specified in the Rules.



3 Brand Classification

3.1 Requirement for Classification

3.2 Each Brand shall be classified by the LME as either:

- (a) a Lower-Focus Brand; or
- (b) a Higher-Focus Brand.

3.3 Such classifications shall be determined on the following basis:

Classification	Basis for classification
Lower-Focus Brand	A Brand that represents a lower risk of responsible sourcing concerns, on the basis that no OECD Red Flags are identified in respect of such Brand.
Higher-Focus Brand	A Brand that represents a higher risk of responsible sourcing concerns, on the basis that one or more OECD Red Flags are identified in respect of such Brand.

3.4 Requirement for OECD Red Flag Assessment

In order to facilitate such classification, each Producer of a Brand must:

- (a) undertake an OECD Red Flag Assessment in respect of such Brand, in accordance with the requirements set out in the LME RFA Template; and
- (b) complete the LME RFA Template in respect of the Brand; and
- (c) submit to the LME the completed LME RFA Template, setting out in full the results of such OECD Red Flag Assessment and indicating the classification of the Brand as either (i) a Lower-Focus Brand or (ii) a Higher-Focus Brand.

A Producer may use an appropriately qualified third party to undertake the OECD Red Flag Assessment and/or to complete and submit to the LME the LME RFA Template. However, in circumstances where a Producer uses such an appropriately qualified third party, the LME shall regard the Producer as remaining responsible for, and solely accountable to the LME for, the submission and the accuracy of the information and assessments contained therein.

3.5 Timings for submission of LME RFA Template

(a) Brands Listed as at 31 December 2020

The Producer of any Brand that is already listed as of 31 December 2020 must submit its first LME RFA Template by 31 December 2020 (relating to the Reporting Period 1 July 2018 – 30 June 2019).



(b) **Initial Listing of Brands taking effect after 31 December 2020**

Any Producer applying for the listing of a Brand (where such listing is expected to take effect after 31 December 2020) must submit an LME RFA Template as part of its application for listing. The LME RFA Template should relate to the Reporting Period ending on the 30 June of the year preceding the year of application.

For example, an application made at any point during 2020 should include an LME RFA Template relating to the Reporting Period 1 July 2018 – 30 June 2019.

For the avoidance of doubt, the LME may delay or deny the granting of listed-Brand status until the LME is in receipt of an LME RFA Template that has been completed to its satisfaction, and a determination has been made in respect of the resultant classification in accordance with Paragraphs 3.6 to 3.9.

(c) **On-Going Assessments**

The Producer of any Brand that is listed as of 31 December 2021, and/or on any subsequent 31 December, must (by 31 December of the year in question) submit an updated LME RFA Template relating to the Reporting Period ending on 30 June of the year in question.

3.6 Review and Determination by the LME

Following receipt of a completed LME RFA Template in respect of a Brand, the LME shall:

- (a) undertake a review of the assessment and the Producer's proposed classification specified therein;
- (b) determine whether the LME:
 - (i) agrees; or
 - (ii) disagrees,with such assessment and classification; and
- (c) notify the Producer of its determination, including (where the LME disagrees with the Producer) the LME's determination of the classification of the Brand.

The classification of the Brand, in accordance with the LME's determination pursuant to Paragraph 3.6(b) shall be definitive.

3.7 LME Requests for Information

The LME may ask a Producer for further information, clarifications or explanations, in order to assist the LME to review the Producer's submission. In the event that a Producer does not comply with such requests, the LME may (in its discretion) classify the Brand as a Higher-Focus Brand and/or take any Brand Action in respect of such Brand.



3.8 Disagreement with the LME's Determination

For the avoidance of doubt, in the event that a Producer disagrees with the LME's determination, such Producer may notify the LME in writing of such disagreement in accordance with Paragraph 2.4.

3.9 Reclassification by the LME

The LME may at any time:

- (a) reclassify a Lower-Focus Brand as a Higher-Focus Brand in the event that the LME is in receipt of information that, in the LME's determination, indicates that the Brand satisfies the requirements for a Higher-Focus Brand, and require that the Producer comply with the requirements for Higher-Focus Brands;
- (b) reclassify a Higher-Focus Brand as a Lower-Focus Brand in the event that the LME is in receipt of information that, in the LME's determination, indicates that the Brand satisfies the requirements for a Lower-Focus Brand, and require that the Producer comply with the requirements for Lower-Focus Brands.

By way of example, but without limitation, the LME may be in receipt of such information that causes it reclassify Lower-Focus Brands and Higher-Focus Brand as a consequence of information or market feedback received from:

- (i) public, industry or other market sources; or
- (ii) any person or market participant pursuant to the submission of a Grievance, or the investigation of a Grievance.

4 Transparency of Brand Classification

- 4.1 The LME may publish the results of the classification process for each Brand, subject to the restrictions set out in this Paragraph.
- 4.2 Following the introduction into force of this Policy, the LME shall apply a graduated schedule for increasing the amount of detail published in respect of such classifications. The following table summarises the schedule for making such classifications public. However, the LME may redact certain information where the LME considers it appropriate to do so (for example, where it considers such redactions to be necessary to preserve reasonable commercial confidentiality).

Date	Policy Year (ending on the relevant Date)	Details Published of OECD Red Flag Assessment Results in respect of LME RFA Templates received during the Policy Year
31 December 2020	Year 1	Summary statistics
31 December 2021	Year 2	Summary statistics



Date	Policy Year (ending on the relevant Date)	Details Published of OECD Red Flag Assessment Results in respect of LME RFA Templates received during the Policy Year
31 December 2022	Year 3	Anonymised versions of per-Brand LME RFA Templates
31 December 2023	Year 4	Anonymised versions of per-Brand LME RFA Templates
31 December 2024	Year 5	Attributed versions of per-Brand LME RFA Templates
31 December of subsequent years	Year 6 and onwards	Attributed versions of per-Brand LME RFA Templates

- 4.3 LME RFA Templates submitted pursuant to an application for the initial listing of a Brand (and hence not in accordance with the dates above) will be disclosed in a manner equivalent to those LME RFA Templates due on the preceding 31 December, as set out in the table above.

5 Requirements for Lower-Focus Brands

- 5.1 Where a Brand has been classified as a Lower-Focus Brand, the Producer of such Brand must comply with the following requirements:
- (a) the Producer must apply the technical standards to be applied in respect of all Brands listed by the LME, as specified in Paragraph 7;
 - (b) the Producer must undertake an annual re-assessment of the classification of the Brand, in accordance with the requirements and process in Paragraph 3.4.
- 5.2 For the avoidance of doubt, the Producer of a Brand classified as a Lower-Focus Brand shall not be required to apply the requirements set out in Paragraph 6.
- 5.3 In the event that it is determined that a Brand should be re-classified as a Higher-Focus Brand for any reason, such re-classification shall take immediate effect, and the relevant requirements and timings in Paragraph 6 shall be applied.

6 Requirements for Higher-Focus Brands

6.1 Standard Adoption

Where a Brand has been classified as a Higher-Focus Brand, the Producer of such Brand must commit to adopt a Standard for such Brand, and notify the LME of the Standard which it intends to adopt.

6.2 Alignment Assessment

- (a) A Producer must ensure the alignment of its proposed Standard with the OECD Guidance. Such Standard may be an Internal Standard or an External Standard.
- (b) A Standard Owner which is not a Producer may submit an OECD Alignment Assessment in respect of an External Standard, and (following confirmation by the LME that the External Standard is aligned), request that the External Standard be specified on the list published by the LME in accordance with Paragraph 8.5 below.
- (c) A Producer must demonstrate to the LME that alignment has been achieved. Such alignment may be demonstrated either by:
 - (i) the Standard being specified on the list published by the LME in accordance with Paragraph 8.5 below; or
 - (ii) the Producer obtaining an OECD Alignment Assessment, from a Recognised Alignment Assessor. If the Producer is not the Standard Owner, then the Producer must provide evidence, acceptable to the LME, that the Standard Owner agrees to the submission of such OECD Alignment Assessment.
- (d) Subject to (e) below, the LME shall not regard any Standard as being aligned unless and until:
 - (i) the LME is in receipt of an OECD Alignment Assessment, in a form acceptable to the LME, from a Recognised Alignment Assessor, demonstrating the alignment of such Standard with the OECD Guidance; and
 - (ii) the LME has reviewed such OECD Alignment Assessment and is itself satisfied that the Standard is sufficiently aligned with the OECD Guidance.
- (e) Where an OECD Alignment Assessment demonstrates substantial but not complete alignment of a Standard with the OECD Guidance, the LME shall be entitled to form its own view regarding the alignment. In such circumstances:
 - (i) the LME may regard such Standard as aligned, subject to any such additional conditions as the LME may determine are appropriate; and
 - (ii) the Standard Owner and/or Producer must comply with any such conditions.

For example, the LME may consider that certain elements of the OECD Guidance have limited application to a specific Metal, in which case the LME may accept an OECD Alignment Assessment for a standard applying only to that Metal where such OECD Alignment Assessment does not address those elements which the LME considers do not apply.



- (f) The LME will require an appropriate period of time to process an application in respect of a Standard and to reach a view as to the alignment of a Standard. Producers should liaise with the LME to understand the LME's indicative timing for completing its assessment and to enable such Producers to allow adequate timing for this process to be completed. The LME is not responsible for ensuring that any Producer is able to meet any particular timeframe or commercial deadline for achieving alignment of its proposed Standard.
- (g) For the avoidance of doubt, where an OECD Alignment Assessment has not demonstrated alignment of a Standard with OECD Guidance, the LME may reject such Standard.
- (h) In the event that there are changes in: (i) the OECD Guidance; (ii) this Policy; or (iii) any Standard, the LME shall determine whether any existing Recognised Alignment-Assessed Standard must undergo a new OECD Alignment Assessment (either in respect of the whole Standard or in respect of any specific aspects of the Standard). The LME shall also determine the timescales within which such process must be completed.

6.3 Brand Compliance

- (a) A Producer must procure an audit report, demonstrating that its Brand complies with the relevant Standard, and submit such report to the LME. The Producer shall provide to the LME such additional information in support of the assessments and conclusions set out in the audit report as the LME may reasonably request.
- (b) The audit must be undertaken by:
 - (i) in the case of an External Standard, an appropriate auditor satisfying the requirements for audits set out in that External Standard;
 - (ii) in the case of an Internal Standard, a Recognised Auditor.
- (c) The LME shall not regard a Brand as being compliant with the relevant Standard unless and until:
 - (i) the Standard has been confirmed as aligned with the OECD Guidance in accordance with Paragraph 6.2;
 - (ii) the LME is in receipt of an audit report, from an appropriate auditor pursuant to Paragraph 6.3(b), demonstrating the compliance of the Brand with the relevant Standard;
 - (iii) in the case of an External Standard, the audit report has undergone the necessary review processes specified by that External Standard; and
 - (iv) the LME has reviewed such audit report (and, in the case of an External Standard, the results of any review process specified by that External Standard) and is itself satisfied that the Brand is compliant with the relevant Standard.
- (d) The LME shall not accept any audit report conducted by an auditor who, in the period two years prior to the issuance of the audit report, acted as the Recognised Alignment Assessor in respect of the Standard to which the audit relates.



6.4 Internal and External Standards

- (a) The LME may, in its discretion, seek a greater degree of assurance, by requiring further information or otherwise, regarding any OECD Alignment Assessment and/or audit report produced in relation to an Internal Standard than an External Standard.
- (b) An Internal Standard must require an update of the associated audit report at least once every two years.

6.5 Timing requirements for Brands Listed as at 31 December 2020 and subsequently Listed Brands that are re-classified

(a) Application

This Paragraph 6.5 shall apply to:

- (i) Brands that are listed as of 31 December 2020 and which are classified at any point as Higher-Focus Brands (an **"Existing Higher-Focus Brand"**); and
- (ii) Brands that become listed after 31 December 2020 and which are classified as Lower-Focus Brands by the LME at the time of listing, and which subsequently become Higher-Focus Brands (a **"Reclassified Higher-Focus Brand"**).

(b) Determination of Initial Red Flag Assessment Date

The dates on which a Producer must have completed the steps under this paragraph shall be determined in accordance with Paragraph 6.5(c) below, by reference to the due date for the submission of the LME RFA Template in which the Brand was first assessed as being a Higher-Focus Brand (the **"Initial Red Flag Assessment Date"**), which shall itself be determined as follows:

- (i) in the case of an Existing Higher-Focus Brand, the Initial Red Flag Assessment Date shall be 31 December 2020; or
- (ii) in the case of a Reclassified Higher-Focus Brand,
 - (1) where the Producer itself categorises the Brand as a Higher-Focus Brand on the LME RFA Template; or
 - (2) the Producer categorises the Brand as a Lower-Focus Brand on the LME RFA Template, but the LME utilises its powers under Paragraph 3.6(b)(ii) to categorise the Brand as a Higher-Focus Brand,

the Initial Red Flag Assessment Date shall be the due-date of the LME RFA Template that resulted in such re-classification (as such due-date was determined in accordance with Paragraph 3.5);

- (iii) in the case of a Reclassified Higher-Focus Brand where the LME utilises its powers under Paragraph 3.9(a) to re-classify a Lower-Focus Brand as a Higher-Focus Brand, the Initial Red Flag Assessment Date shall be the date that the LME notifies the Producer of such re-classification;



- (iv) in the case of a Reclassified Higher-Focus Brand where a Higher-Focus Brand, becomes a Lower-Focus Brand, and then subsequently becomes a Higher-Focus Brand again, the Initial Red Flag Assessment Date shall be the date that such Brand is deemed to return to Higher-Focus Brand status (as determined in accordance with Paragraph 6.5(b)(ii) or (iii), as applicable).

(c) **Requirements**

The Producer of any Brand to which this Paragraph 6.5 applies must comply with the following requirements.

- (i) No later than ***twelve months following the Initial Red Flag Assessment Date***, the Producer must notify the LME of the Standard which it intends to adopt for the Brand, pursuant to Paragraph 6.1.
- (ii) No later than ***eighteen months following the Initial Red Flag Assessment Date***, the Producer must submit an OECD Alignment Assessment to the LME, in respect of its chosen Standard, pursuant to Paragraph 6.2(d).

This step shall not be required if the Standard is an External Standard that, as of the date eighteen months following the Initial Red Flag Assessment Date, is already a Recognised Alignment-Assessed Standard specified on the list published by the LME in accordance with Paragraph 8.5 below.

- (iii) No later than ***twenty-four months following the Initial Red Flag Assessment Date***, the Producer must submit to the LME an audit report and any other information required pursuant to Paragraph 6.3.
- (iv) In the case of a Reclassified Higher-Focus Brand, the LME reserves the right to specify such shorter periods than those specified in this Paragraph 6.4(c) as it considers appropriate.

Explanatory Notes:

- (1) Any Producer making any change to its sourcing strategy which could result in its Brand becoming a Reclassified Higher-Focus Brand should contact the LME at the earliest possible opportunity to discuss the proposed changes.
- (2) In circumstances where the LME considers that the Producer's own assessment under the LME RFA Template was incorrect, that Producer should expect that the revised time periods specified by the LME may be considerably shortened.
- (3) The specification of revised periods pursuant to Paragraph 6.5(c)(iv) shall be without prejudice to any other actions which the LME may take as a result of the submission of an incorrect assessment.

- (v) The Producer must ensure that the audit reports required pursuant to Paragraph 6.3 are updated in accordance with the timescales specified in the Standard, and such updated reports and any other information required are submitted to the LME once completed, in accordance with the requirements of Paragraphs 6.3 and 6.4.

6.6 Timing requirements for newly-listed Higher-Focus Brands

(a) Application

This Paragraph 6.6 shall apply to Brands that become listed after listed after 31 December 2020 and which are classified as Higher-Focus Brands by the LME at the time of listing (on the basis of LME RFA Template submitted by the Producer as part of the listing application). The date on which the application for listing is submitted to the LME shall be the "**Application Date**".

(b) Requirements

The Producer of any Brand to which this Paragraph 6.6 applies must comply with the following requirements.

- (i) By the later of (i) the Application Date and (ii) 31 December 2021, the Producer must notify the LME of the Standard which it intends to adopt for the Brand, pursuant to Paragraph 6.1.
- (ii) By the later of (i) the Application Date and (ii) 30 June 2022, the Producer must submit an OECD Alignment Assessment to the LME, in respect of its chosen Standard, pursuant to Paragraph 6.2(d).

This step shall not be required if the Standard is an External Standard that, as of the later of (i) the Application Date and (ii) 30 June 2022, is already a Recognised Alignment-Assessed Standard specified on the list published by the LME in accordance with Paragraph 8.5 below.

- (iii) By the later of (i) the Application Date and (ii) 31 December 2022, the Producer must submit to the LME an audit report and any other information required pursuant to Paragraph 6.3.
 - (iv) The Producer must ensure that the audit reports required pursuant to Paragraph 6.3 are updated in accordance with the timescales specified in the Standard, and such updated reports and any other information required are submitted to the LME once completed, in accordance with the requirements of Paragraphs 6.3 and 6.4.
- (c) For the avoidance of doubt, to the extent that steps above are required as of the Application Date, then the relevant information must be provided as part of the Producer's application for listing of the Brand. The LME may delay or deny the granting of listed-brand status until such the LME is in receipt of such information to its satisfaction.

6.7 Disclosure of audit reports

Audit reports must be disclosed pursuant to:



- (a) (in relation to any External Standard) the transparency requirements of the relevant Standard; or
- (b) (in relation to any Internal Standard), step five (5) of the OECD Guidance.

7 ISO 14001 and OHSAS 18001 / ISO 45001 Requirements for Brands

7.1 Required Certification

Each Producer shall ensure that its Brands shall each be certified as compliant with:

- (a) ISO 14001 and OHSAS 18001 / ISO 45001; or
- (b) Equivalent Certification Programmes,

and, following the initial certification, shall ensure that such certification remains current and valid. Each Producer shall ensure that the LME is at all times in receipt of a current, valid copy of each such certification.

7.2 Use of Other Market Certification Programmes

A Certification Programme Owner which is not a Producer may submit to the LME an ISO / OHSAS Equivalence Assessment in respect of that Certification Programme and (following confirmation by the LME that the Certification Programme represents an Equivalent Certification Programme), request that the Equivalent Certification Programme be specified on the list published by the LME in accordance with Paragraph 8.5 below.

7.3 Use of Equivalent Certification Programme

A Producer proposing to apply a Certification Programme that it considers to be an Equivalent Certification Programme must either:

- (a) demonstrate to the LME that the Certification Programme is contained on the list of Equivalent Certification Programmes published by the LME in accordance with Paragraph 8.5 below; or
- (b) provide to the LME an ISO / OHSAS Equivalence Assessment in respect of the Certification Programme. If the Producer is not the Certification Programme Owner, then the Producer must provide to the LME evidence, acceptable to the LME, that the Certification Programme Owner agrees to the submission of such ISO / OHSAS Equivalence Assessment.

7.4 Timings for submission of certificates

- (a) **Brands Listed as at 31 December 2022**

The Producer of any Brand that is listed as of 31 December 2022 must submit its initial certifications under Paragraph 7.1 by 31 December 2022. If the Producer proposes to make use of an Equivalent Certification Programme, it must have ensured that the ISO / OHSAS Equivalence Assessment has been reviewed by the LME in sufficiently good time prior to this date to enable both: (i) the LME to complete the appropriate assessment under Paragraphs 7.2 or 7.3 (as applicable) and (ii) the Producer to obtain the necessary certification.

(b) New Applications for Listing

Any Producer applying for the listing of a Brand (where such listing is expected to take effect after 31 December 2022) must submit its certifications under Paragraph 7.1 as part of its application for listing. If the Producer proposes to make use of an Equivalent Certification Programme which is not already the subject of an ISO / OHSAS Equivalence Assessment, it must submit the ISO / OHSAS Equivalence Assessment as part of the application for listing.

For the avoidance of doubt, the LME may delay or deny the granting of listed-Brand status until this process has been completed to the LME's satisfaction.

- 7.5 The LME will require an appropriate period of time to process an application in respect of a Certification Programme. Producers should liaise with the LME to understand the LME's indicative timing for completing its assessment and to enable such Producers to allow adequate timing for this process to be completed. The LME is not responsible for ensuring that any Producer is able to meet any particular timeframe or commercial deadline for achieving certification of its proposed Certification Programme.

8 Recognition of Standards, Equivalent Certification Programmes, Alignment Assessors and Auditors

8.1 Recognition of Standards

Pursuant to the requirements of Paragraph 6, a Producer of a Brand or Standard Owner may apply to the LME for a Standard to become a Recognised Alignment-Assessed Standard.

8.2 Recognition of Equivalent Certification Programmes

Pursuant to the requirements of Paragraph 7, a Producer of a Brand or Certification Programme Owner may apply to the LME for a Certification Programme to become an Equivalent Certification Programme.

8.3 Recognition of Alignment Assessors and Auditors

An individual or company wishing to be recognised as:

- (a) a Recognised Alignment Assessor; or
- (b) a Recognised Auditor,

shall notify the LME, together with a summary of that individual or company's qualifications to undertake the role. Where necessary, the LME may seek such further information as it considers appropriate or necessary in order to assess such individual's or company's qualifications. The LME shall, in its absolute discretion (acting reasonably) determine whether such individual or company should become a Recognised Alignment Assessor or Recognised Auditor (as applicable).

8.4 Recognition at the LME's Discretion

For the avoidance of doubt, the recognition of, or revocation of recognition of:

- (a) any Standard as a Recognised Alignment-Assessed Standard; or
- (b) any Certification Programme as an Equivalent Certification Programme; or
- (c) any individual or company as a Recognised Alignment Assessor; or
- (d) any individual or company as a Recognised Auditor,

shall be at the sole discretion of the LME.

8.5 Publication of Lists

The LME shall publish lists of:

- (a) Recognised Alignment-Assessed Standards, subject to the agreement of the relevant Standard Owner; and
- (b) Equivalent Certification Programmes, subject to the agreement of the relevant Certification Programme Owner; and
- (c) Recognised Alignment Assessors; and
- (d) Recognised Auditors.

Such lists shall be published on the LME's website.

8.6 Use of Standards and Certification Programmes Not on the LME's Published Lists

- (a) For the avoidance of doubt, a Recognised Alignment-Assessed Standard does not need to be published on the relevant list published pursuant to Paragraph 8.5, if the relevant Standard Owner does not wish such publication. In such a case, the relevant Standard Owner (if also a Producer) may still utilise the Recognised Alignment-Assessed Standard for its own compliance with this Policy.
- (b) For the avoidance of doubt, an Equivalent Certification Programme does not need to be published on the relevant list published pursuant to Paragraph 8.5, if the relevant Certification Programme Owner does not wish such publication. In such a case, the relevant Certification Programme Owner (if also a Producer) may still utilise the Equivalent Certification Programme for its own compliance with this Policy.

9 The LME's Powers to Take Brand Action

9.1 In the event that:



- (a) the LME determines that a Brand does not comply with this Policy; or
- (b) a Producer of a Brand fails to perform any of the actions, or take any of the steps, required of it pursuant to this Policy, including (without limitation) the completion of a requirement within any timescale specified in this Policy,

the LME may take any of the Brand Actions specified in Paragraph 9.2, in respect of the Brand, as the LME considers appropriate.

9.2 The LME may take one of more of the following Brand Actions:

- (a) the LME may publish a Notice specifying that it has determined that the Brand is not compliant with the requirements of this Policy and/or the relevant Standard;
- (b) the Brand may be suspended or de-listed for the purposes of Part 7 of the Rules;
- (c) the LME may suspend deliveries of Metal for that Brand onto warrant; and/or
- (d) the LME may suspend or permanently prohibit existing Warrants representing Metal for that Brand, so that such Warrants shall cease to be eligible to be validly used to settle any Contract under the Rules.

9.3 Where the LME makes a determination pursuant to Paragraph 9.1 to apply any Brand Action under Paragraph 9.2, it may take such Brand Action from such date (which, for the avoidance of doubt, may be immediately), and at such period of notice as the LME may determine.

9.4 Where a Brand which has been de-listed under this Paragraph 9, the Producer of such Brand may subsequently apply for re-listing of the Brand. Any such application must comply with the requirements of Part 7 of the Rules and this Policy, and must include sufficient explanations and evidence to satisfy the LME that, if re-listed, the Brand would not again be subject to a Brand Action.

9.5 The LME may, in its sole discretion and acting reasonably, choose to disapply any requirement (in general or in respect of any specific Brand, and with or without notification or notice to the market or any person affected by this Policy) where it considers this to be in the best interest of the Exchange or the market supported by the Exchange.

10 Information Sharing

Any Producer submitting any information to the LME pursuant to or in accordance with this Policy must do so on the understanding, and with the agreement that, the LME may:

- (a) use such information for the purposes of this Policy and/or the Rules; and/or
- (b) disclose such information to:
 - (i) an auditor for the purpose of enabling such auditor to discharge an audit pursuant to Paragraph 6.3 (either as a Recognised Auditor or as an auditor appointed in respect of an External Standard), or to assist the LME to investigate any aspect of any matter relating to the compliance of a Brand with the standards under this Policy; and/or



- (ii) a standards-setting, assessment or monitoring body with responsibilities in respect of any Standard (including, any Recognised Alignment Assessor); and/or
 - (iii) any other person with whom the LME may need to disclose such information to enable the LME to discharge any function or responsibility described for the LME in this Policy; and/or
- (c) disclose such information to any person to whom it may disclose information pursuant to Membership Regulation 21 (Confidentiality) of the Rules.

11 Notification of Grievances

- 11.1 Any person, whether a market participant or otherwise, having a concern as to the compliance of a Brand with the provisions of this Policy (a "**Grievance**") may submit their concerns to the LME. The LME shall determine whether and how to investigate any Grievance received pursuant to this Policy.

12 The LME's Own-Initiative Investigation

- 12.1 The LME may, on its own initiative, undertake an investigation, or make enquiries, to determine the compliance of a Brand with the provisions of this Policy (an "**Own-Initiative Investigation**"). The LME shall not be required to have reasonable grounds in order to exercise such powers.

13 Co-Operation with LME Investigations

- 13.1 Following a determination by the LME to investigate a Grievance or, upon the initiation of an Own-Initiative Investigation:
- (a) the LME shall undertake such investigation, and make such enquiries, as it considers reasonable;
 - (b) the LME may request that the Producer of the Brand provide to the LME such information regarding the Brand as the LME considers appropriate to enable the LME to assess the merits of the Grievance or to progress the Own-Initiative Investigation (as applicable);
 - (c) where a Grievance or Own-Initiative Investigation concerns the accuracy of information provided on an LME RFA Template, the LME may (without limitation) request that the Producer provide supporting evidence, or procure an independent audit of the LME RFA Template (subject to such conditions as the LME may reasonably prescribe);
 - (d) where a Grievance or Own-Initiative Investigation concerns the accuracy or sufficiency of an audit report submitted in respect of a Brand, the LME may (without limitation) provide relevant information to the auditor and request that this be considered in the context of the audit;
 - (e) in respect of any Grievance or Own-Initiative Investigation, the LME may require any other reasonable action to be undertaken by the Producer and the Producer shall comply with any such request;



- (f) where the LME:
- (i) is satisfied that a Grievance is valid; or
 - (ii) determines that a Brand is not compliant with the requirements of this Policy (whether pursuant to an Own-Initiative Investigation or otherwise),
- the LME may take Brand Action in respect of the Brand in accordance with Paragraph 9. For the avoidance of doubt, the LME's power to take Brand Action shall be determined by Paragraph 9 and nothing in this Paragraph 13 shall limit, or introduce any additional procedural conditions upon, the LME's ability to take Brand Action pursuant to Paragraph 9.

13.2 Where the LME makes an enquiry or request pursuant to Paragraph 3.7 or Paragraph 13.1 above, the Producer's costs of complying with such enquiry or request (including any costs of appointing any Recognised Auditor) shall be borne by the Producer. In the event that a Producer does not wish to comply with any such request in respect of any of its Brands, and to bear the cost of such compliance accordingly, such Producer may apply to the LME to voluntarily de-list the affected Brand(s). For the avoidance of doubt, in the event that a Producer elects to apply for such voluntary de-listing, the LME may (where the LME considers it appropriate in the circumstances) take Brand Action in respect of the affected Brand(s).

14 Timetable

14.1 Deadlines for Specific Actions

The deadlines for specific actions required to be performed by Producers or other parties under this Policy shall be as set out in the relevant Paragraphs of this Policy. However, by way of illustration, an indicative timeline is set out below, in respect of a Brand listed prior to 31 December 2020, and which is determined to be a Higher-Focus Brand:

#	Action	Deadline
(a)	Submission of LME RFA Template	31 December 2020 <i>(updated by every subsequent 31 December)</i>
(b)	Identification of proposed Standard	31 December 2021
(c)	Standard to be accepted as Recognised Alignment-Assessed Standard	30 June 2022
(d)	Audit of Brand to Standard to be completed	31 December 2022 <i>(and updated on timeline prescribed by Standard)</i>

(e)	ISO 14001 and OHSAS 18001 / ISO 45001 (or Equivalent Certification Programmes) certifications to be completed	31 December 2022 <i>(Certification Programmes to be accepted as Equivalent Certification Programmes by this date)</i> <i>(and updated on timeline prescribed by Certification Programmes)</i>
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15 Changes to Policy

- 15.1 The LME reserves the right to modify or update the terms of this Policy at any time, for any reason, without seeking the prior consent of any Member, Producer or other person.
- 15.2 Subject to Paragraphs 15.3 and 15.4 below, the LME shall use reasonable endeavours to enter into dialogue with Producers of the LME-listed Brands in respect of any material change to the Policy that is likely to have a substantial impact on the operational burden imposed on Producers generally.
- 15.3 Any such dialogue shall offer such Producers or other parties a reasonable period, as determined by the LME, to review and comment on the proposed change. The LME shall take any comments received from Producers or other parties into account, but it shall be under no obligation to amend its proposed changes or to act in any way on the basis of the comments received from Producers or other parties. Any changes implemented, or not implemented, by the LME shall be at the absolute discretion of the LME.
- 15.4 The LME shall not be required to enter into dialogue with Producers or other parties, or otherwise consult, on any change to the Policy that:
- (a) does not fall within Paragraph 15.2 above;
 - (b) is required to comply with any direction given to the LME by any competent regulator of the LME, or any law enforcement authority;
 - (c) is required to comply with any change in applicable law or regulation in circumstances where there is, in the opinion of the LME, not sufficient time to conduct a consultation; and/or
 - (d) is a non-material administrative change,
- and any such changes shall be notified to Producers by a Notice issued by the LME.
- 15.5 Any change to the Policy shall come into effect upon the expiry of 30 days following the issue by the LME of notice of the proposed change or thereafter on such date prescribed by the LME in its absolute discretion. The LME may specify a shorter notice period than required pursuant to this Paragraph 15.5, where the LME considers that it is appropriate to do so, having regard to the interests of the LME, Producers and users of the Brands, and to the obligations of the LME to ensure continued compliance with applicable law and regulation.

16 Glossary

Term	Definition
Application Date	has the meaning set out in Paragraph 6.6(a);
Brand	means a brand of Metal, associated with a particular Producer, that is listed, or submitted for listing, in accordance with Part 7 (<i>Requirements for the Listing of Brands</i>) of the Rules;
Brand Action	means any action described under Paragraph 9.2;
Certification Programme	means a documented set of requirements which a Brand must satisfy in order to demonstrate equivalent protections as the ISO 14001 and OHSAS 18001 / ISO 45001 certifications;
Certification Programme Owner	means the entity or entities having the intellectual property or other ownership rights in respect of a Certification
Equivalent Certification Programme	means a Certification Programme that has been demonstrated to the LME's satisfaction to be equivalent to, or an improvement upon, the ISO 14001 and OHSAS 18001 / ISO 45001 certifications;
Existing Higher-Focus Brand	has the meaning set out in Paragraph 6.5(a);
External Standard	means a Standard which is not an Internal Standard;
Grievance	has the meaning set out in Paragraph 11.1;

Higher-Focus Brand	means a Brand meeting the basis for classification as a "Higher-Focus Brand", as set out in Paragraph 3.3, or which is otherwise determined to be a "Higher-Focus Brand" by the LME;
Initial Red Flag Assessment Date	has the meaning set out in Paragraph 6.5(b);
Internal Standard	means a Standard whose Standard Owner is the Producer, or an Affiliate of the Producer;
ISO / OHSAS Equivalence Assessment	means an independent audit report, produced by a reputable and appropriately experienced third party that is acceptable to the LME, which assesses and confirms that a certification programme is an Equivalent Certification Programme;
ISO 14001	means the international standard prescribed by the International Organisation for Standardization that specifies the framework requirements for an effective environmental management system;
ISO 45001	means the international standard prescribed by the International Organisation for Standardization that specifies the framework requirements to improve employee safety, reduce workplace risks and create better, safer working conditions, all over the world;
LME RFA Template	means the template published by the LME, which must be used by Producers to complete OECD Red Flag Assessments in respect of each Brand;
Lower-Focus Brand	means a Brand meeting the basis for classification as a "Lower-Focus Brand", as set out in Paragraph 3.3, and which is not otherwise determined to be a "Higher-Focus

	Brand" by the LME;
Metal	means any metal for which specifications are detailed in Part 6 (Special Contract Rules for Metals) of the Rules, but excluding any metal specified in Parts 6A, 6B, 6C or 6D of the Rules;
Objecting Party	has the meaning set out in Paragraph 2.4;
OECD	means the Organisation for Economic Cooperation and Development;
OECD Alignment Assessment	means the process by which a Standard is shown to be capable of demonstrating adherence to the OECD Guidance, pursuant to the methodology set out in the OECD document " <i>Methodology for the Alignment Assessment of Industry Programmes with the OECD Minerals Guidance</i> ";
OECD Guidance	means the guidance and requirements set out in the OECD document " <i>OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas</i> ", including the " <i>Supplement on Tin, Tantalum and Tungsten</i> " of the OECD Guidance (subject that, for the avoidance of doubt, although the supplement relates only to tin, tantalum and tungsten, for the purpose of this Policy, the requirements of that supplement shall be applicable to all Metals);
OECD Red Flags	means the red flag indicators contained in the section " <i>Red flags triggering the application of this supplement</i> " of the " <i>Supplement on Tin, Tantalum and Tungsten</i> " of the OECD Guidance (subject that, for the avoidance of doubt, although the supplement relates only to tin, tantalum and tungsten, for the purpose of this Policy, the OECD Red Flags shall be applicable to all Metals), amended as specified in LME

	RFA Template;
OECD Red Flag Assessment	means an assessment, undertaken by a Producer in respect of its Brand, in order to identify whether that Brand triggers any of the OECD Red Flags;
OHSAS 18001	is a British Standard framework for an occupational health and safety management system (officially known as BS OHSAS 18001). It has been superseded by ISO 45001 and all OHSAS 18001 certified organisations will need to have transitioned by March 2021 – and consequently, any reference in this Policy to OHSAS 18001 shall be read as ISO 45001 from the date of such transition;
Own-Initiative Investigation	has the meaning set out in Paragraph 12.1;
Policy	means this Policy on Responsible Sourcing of the LME Metals;
Producer	means a producer, smelter or refiner of a Metal represented by a Brand;
Reclassified Higher-Focus Brand	has the meaning set out in Paragraph 6.5(a);
Recognised Auditor	means an individual, company, partnership or association recognised by the LME as being competent to undertake an audit of the compliance of a Brand with a specific Standard;
Recognised Alignment Assessor	means an individual or company recognised by the LME as being competent to undertake an OECD Alignment Assessment;
Recognised Alignment-Assessed Standard	means a Standard which has, in the opinion of the LME, successfully undergone OECD Alignment Assessment by a Recognised Alignment Assessor;

Recognised Equivalent Assessment Programme	means a certification programme in respect of which the LME is in receipt of a ISO / OHSAS Equivalence Assessment confirming that such certification programme is an Equivalent Assessment Programme;
Reporting Period	has the meaning set out in the LME RFA Template;
Rules	has the meaning set out in Paragraph 1.3;
Standard	means a documented set of requirements which a Brand must meet, together with an auditing procedure, in order to demonstrate adherence to the OECD Guidance;
Standard Owner	means the entity or entities having the intellectual property or other ownership rights in respect of a Standard.



LME Red Flag Assessment Template

Reporting form template for LME-listed brands

LME RED FLAG ASSESSMENT TEMPLATE – OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE SUPPLY CHAINS OF MINERALS FROM CONFLICT-AFFECTED AND HIGH-RISK AREAS

Introduction

- This template sets out the proposed reporting form for LME-listed brands, pursuant to the LME consultation on responsible sourcing (the “Consultation”). Readers should first refer to the Consultation for an explanation of the background to these proposals
- The template is designed to capture the output of a Red Flag Assessment, undertaken in accordance with the process found in the section “Red flags triggering the application of this supplement”, in the “Supplement on tin, tantalum and tungsten” (“3T”) of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (the “OECD Guidance”)
- As further set out in the Consultation, the LME considers the 3T process appropriate for all LME base metals
- The LME understands that many brands will have already undertaken a Red Flag Assessment, based either on an internal template, or a standard-form template provided by a third-party trade association or other standards body. The LME recognises the significant amount of work which has already been undertaken by the industry, and has designed this template with such approaches in mind. In particular, it should be straightforward for brands which have already undertaken a Red Flag Assessment to transcribe their findings onto this template. However, the LME does believe it ultimately is important that all LME brands’ Red Flag Assessments are available in a common template
- Furthermore, and as also set out in the Consultation, the LME proposes that the Red Flag Assessment be published – initially on an aggregated statistics basis, then on an individual anonymised basis, and finally on an attributed basis. The LME’s commitment to transparency has meant it has adopted a broad interpretation of the core OECD Guidance position, and is mandating the publication of (i) the basis for the conclusions of the Red Flag Assessment (as provided by the completion of this template), and (ii) the “Step 5” reporting mandated in the “Supplement on tin, tantalum and tungsten” of the OECD Guidance (“Step 5 Reporting”). For the avoidance of doubt, the LME believes that Section A.1 of Step 5 Reporting (in respect of upstream sourcing) and Section A.2 of Step 5 Reporting (in respect of smelting/refining operations) are relevant to LME-listed brands; Section A.3 of Step 5 Reporting (downstream companies) is not incorporated (and is, in any event, covered by Sections A.1 and A.2)
 - The form therefore requires the disclosure necessary to demonstrate why the particular Red Flag Assessment conclusions have been reached, and also information relevant to Step 5 Reporting
 - At the same time, the fact that forms will be published requires that the template does not require the disclosure of commercially confidential information. The range of disclosure required has been designed with this in mind; it is expected that producers will have significantly more information and analysis underlying their Red Flag Assessment which is not required to be disclosed on this form. To the extent that the LME has concerns as to the accuracy or completeness of information on forms, it has additional powers to compel the production (on a confidential basis) of further supporting data

Directions

- One form must be completed for each individual LME-listed brand (the “Brand”), by the company registered as producing that Brand (the “Producer”). Producers responsible for more than one Brand (for the same metal, or different metals) may reproduce information as appropriate between forms. It is permissible for questions to be answered on a broader basis than for just this Brand; for example, a Producer may answer questions with respect to a given smelter (or indeed the entirety of its operations), as long as such responses incorporate all information pertinent to the Brand



- Forms must be returned by 31 December of each year (with the first returns required by 31 December 2020)
- Information in the form relates to the twelve months finishing six months prior to the submission deadline date (the “Reporting Period”). So, for example, information on forms due by 31 December 2020 should relate to the period between 1 July 2019, and 30 June 2020

1) BRAND INFORMATION

Brand name:		LME Brand code:	
Producer name:		Producer address:	
Contact details:		Reporting Period:	1 July 2019 – 30 June 2020
Date of form:			

2) COMPANY MANAGEMENT SYSTEMS, RISK ASSESSMENT AND RISK MANAGEMENT

- The LME believes it important that its listed brands report on their company management systems, supply chain risk assessment and risk management. This is because this information is necessary to reassure market stakeholders that the analysis of the Red Flag Assessment has been correctly completed
- The LME notes that these requirements are subject to “business confidentiality and other competitive concerns” (defined in the OECD Guidance as “price information and supplier relationships without prejudice to subsequent evolving interpretation”)
- The LME fully expects that different brands will adopt different interpretations of the scope of “business confidentiality and other competitive concerns”, with the result that forms returned in the first year (deadline 31 December 2020) will feature differing levels of disclosure. This is a core reason for not mandating publication in the first two years of reporting, so that those brands adopting a more transparent approach do not feel disadvantaged by having done so. The LME will then work with brands to set out expectations as to the required level of disclosure, such that when forms are published (initially anonymously, and then on an attributed basis) there is a clear and common understanding as to industry expectations

- a. **Company Management Systems:** In respect of the production of this Brand in this Reporting Period, set out the Producer’s supply chain due diligence policy; explain the management structure responsible for the Producer’s due diligence and who in the Producer is directly responsible; describe the control systems over the mineral supply chain put in place by the Producer, explaining how this operates and what data it has yielded that has strengthened the Producer’s due diligence efforts in this Reporting Period; describe the Producer’s database and record-keeping system and explain the methods for disclosing all suppliers, down to the mine of origin, to downstream actors

This question partially reflects item A.1.1 of the Step 5 Reporting. Note that the requirement to “disclose information on payments made to governments in line with EITI criteria and principles” is contained in Section 6) of this template, given the LME’s specific commitment to the combatting of financial crime and corruption risk.

- b. **Company risk assessment in the supply chain:** Publish the risk assessment for this Brand in respect of the Reporting Period, with due regard taken of business confidentiality and other competitive concerns. Outline the methodology, practices and information yielded by the on-the-ground assessment; explain the methodology of the Producer’s supply chain risk assessments

This question reflects item A.1.2 of the Step 5 Reporting.



- c. **Risk management:** Describe the steps taken to manage risks in respect of this Brand during the Reporting Period, including a summary report on the strategy for risk mitigation in the risk management plan, and capability-training, if any, and the involvement of affected stakeholders. Disclose the efforts made by the Producer to monitor and track performance

This question reflects item A.1.3 of the Step 5 Reporting.

3) LOCATIONS OF MINERAL ORIGIN AND TRANSIT

- An effective Red Flag Assessment will require a clear understanding of the countries (i) from which minerals have originated, and (ii) through which minerals have transited
- a. On the basis of the Producer's Company Management Systems for tracing the origin of materials from its operations and those of its suppliers, list the counties from which the Producer or its suppliers (direct or indirect) originated the minerals used for this Brand during the Reporting Period

This answer may be provided as a list of countries, and does not need to be disaggregated by supplier. However, the LME may request this information on a confidential basis in the event of further assessment of the Red Flag Assessment being required.

- b. 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 the counties through which minerals originating from the Producer or from its suppliers (direct or indirect) used for this Brand have transited during the Reporting Period

This answer may be provided as a list of countries, and does not need to be disaggregated by supplier. However, the LME may request this information on a confidential basis in the event of further assessment of the Red Flag Assessment being required.

- c. Is any company in the supply chain for this Brand, including the Producer and its suppliers (direct or indirect) unable to determine the countries from which minerals used for this Brand either originated or transited during the Reporting Period?

4) SUPPLIERS

- a. On the basis of the Producer's Company Management Systems for assessing suppliers and other upstream companies, compile a list of companies (the "Relevant Companies") in which the Producer's suppliers and other upstream companies have had shareholder and other interests during the Reporting Period. List the countries from which the Relevant Companies supply minerals, and countries in which the Relevant Companies operate

This answer may be provided as a list of countries, and does not need to be disaggregated by Relevant Company. For the avoidance of doubt, the identities of the Relevant Companies do not need to be disclosed; however, the LME may request this information on a confidential basis in the event of further assessment of the Red Flag Assessment being required.



- b. On the basis of the Producer's Company Management Systems for assessing suppliers and other upstream companies, list the countries in which those suppliers and other upstream companies have originated and transited minerals during the Reporting Period

This answer may be provided as a list of countries, and does not need to be disaggregated by supplier/other upstream company. However, the LME may request this information on a confidential basis in the event of further assessment of the Red Flag Assessment being required.

5) ASSESSMENT OF GEOGRAPHIES (ORIGINATION AND CHAIN OF CUSTODY)

- Core to the Red Flag Assessment is the determination of Conflict-Affected and High-Risk Areas ("CAHRAs").
 - As set out in the Consultation, the LME believes that the determination of CAHRAs is ultimately for producers to undertake. In this regards, producers should have regard to the CAHRA definition provided in the OECD Guidance
 - The LME has determined that the CAHRA definition relevant to LME-listed brands should be the expanded scope set out in the "Definitions" section of the "Supplement on gold" in the OECD Guidance. In particular, this incorporates the abuses from Paragraph 1 of Annex II of the OECD Guidance into the CAHRA definition
 - The LME further recognises that the definition of CAHRA does not map precisely onto national boundaries, and it appears possible under the OECD Guidance that certain sub-divisions of a state would be a CAHRA, and other sub-divisions not a CAHRA. This possibility is reflected in the methodology below
- a. For each of the countries identified in the answers to items 3)a, 3)b, 4)a and 4)b, classify that country (based on the Producer's risk assessment during the Reporting Period) into:
- (i) A country of which no area falls into the CAHRA definition
 - (ii) A country of which all areas fall into the CAHRA definition
 - (iii) A country of which some, but not all, areas fall into the CAHRA definition. In this case, indicate whether the areas to which the answers to items 3)a, 3)b, 4)a and 4)b relate fall within the CAHRA definition
- b. For each of the countries identified in the answers to items 3)a, 3)b, 4)a and 4)b, indicate whether or not (based on the Producer's risk assessment during the Reporting Period) minerals from CAHRAs are known to transit through that country
- c. For each of the countries identified in the answers to items 3)a, 3)b, 4)a and 4)b, indicate whether or not (based on the Producer's risk assessment during the Reporting Period) that country (in respect of the contribution of minerals from that country to production of the Brand) has limited known resources, likely resources or expected production levels (i.e. whether the declared volumes of mineral from that country for use in producing the Brand are out of keeping with that country's known reserves or expected production levels)

6) FINANCIAL CRIME AND CORRUPTION RISK

- As set out in the Consultation, 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 Extractive Industries Transparency Initiative ("EITI"), as referenced in 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 disclose EITI compliance on a per-country basis.

- a. **Payments made to governments:** Confirm that the Producer discloses information in respect of this Brand in this Reporting Period on payments made to governments in line with EITI criteria and principles, and provide the details of where such reporting may be found

This question partially reflects item A.1.1 of the Step 5 Reporting.

- b. **Per-country EITI transparency:** For each of the countries identified in the answers to items 3)a, 3)b, 4)a and 4)b, set out:
- (i) Whether the country is an EITI member country
 - (ii) If the country is an EITI member country, whether the Producer, its suppliers and/or other upstream companies are in compliance with the EITI reporting requirements of that country. Where relevant (and where such disclosure would not require the disclosure of commercially confidential information), provide links to the latest EITI report, or the relevant company's submission for the purpose of EITI reporting
 - (iii) If the country is not an EITI member country, whether the Producer, its suppliers and/or other upstream companies undertake other steps to provide transparency on payments and other matters in line with the EITI principles and Standard

7) RED FLAG ASSESSMENT

- a. Do any of the countries identified in 3)a (origin of minerals) or 3)b (transit of minerals) fall into the list of CAHRAs identified in 5)a (including countries falling into CAHRA grouping 5)a(iii) where the CAHRA areas are included in the Brand's origin or transit of minerals)?

This provides coverage of the first OECD Red Flag.

- b. Do any of the countries identified in 3)a (origin of minerals) fall into the list of limited resource countries identified in 5)c?

This provides coverage of the second OECD Red Flag.

- c. Do any of the countries identified in 3)a (origin of minerals) fall into the list of transit counties identified in 5)b?

This provides coverage of the third OECD Red Flag.

- d. Do any of the countries identified in 4)a (shareholder and other interests) fall into the list of CAHRAs identified in 5)a, or the list of transit counties identified in 5)b?

This provides coverage of the fourth OECD Red Flag.

- e. Do any of the countries identified in 4)b (supplier operations) fall into the list of CAHRAs identified in 5)a, or the list of transit counties identified in 5)b?

This provides coverage of the fifth OECD Red Flag.



- f. Is the answer to 3)c (unknown source of minerals) positive?

This provides coverage of the OECD Red Flag instruction that “if a company in the supply chain is unable to determine whether the minerals in the company’s possession come from a ‘red flag location of mineral origin or transit’, it should proceed to Step 1 of the Guidance”.

- g. Does the producer fail to undertake required EITI reporting pursuant to 6)a?

This reflects the stated focus of the LME on financial crime and corruption risk.

- h. Is the answer to any of 7)a – 7)g positive?

If so, then it should be assumed that one or more Red Flags are engaged, and the Brand is hence a Higher-Focus Brand for the purposes of the LME’s responsible sourcing requirements. The Higher-Focus Brand will be required to undertake an audit of compliance with an OECD Guidance-aligned standard, the results of which audit will be published (in accordance with the requirements of the relevant standard) per item A.2 of the Step 5 Reporting.

If not, then it should be assumed that Red Flags are not engaged, and the Brand is hence a Lower-Focus Brand for the purposes of the LME’s responsible sourcing requirements.

- i. Does the Producer believe that the Red Flag Assessment should result in a different outcome than indicated in 7)h? If so, then a full explanation must be given.

If this is the case, it is expected that the Producer will have discussed this with the LME in advance of submission of this form.