

# Overview of LME responsible sourcing

October 2019



SETTING THE GLOBAL STANDARD



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## 1. INTRODUCTION

The LME occupies a privileged position in the global metals industry. Its brand lists determine which categories of metal can be delivered against LME contracts; and more broadly, many international physical supply contracts stipulate LME brands for delivery. Accordingly, the LME is able to work with the metals and mining 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 requirements. On 5 October 2018, the LME released a position paper outlining its proposals in respect of responsible sourcing, and following this, a formal market consultation on 23 April 2019. The LME would like to thank all the market participants who have engaged with the LME throughout this process, and those who have provided written comments, or the benefit of their experience through meetings and calls. The Exchange very much appreciates the time and effort taken by all those who have contributed.

At each stage of market engagement, the LME has taken all the feedback received into careful consideration, and has endeavoured to provide comprehensive transparency as to its analysis of the issues raised, the recommendations and suggestions it has incorporated into its proposals – and equally those which it has not – and a rationale for both.

The LME is now introducing responsible sourcing requirements for all brands listed for good delivery on the LME against physically settled contracts (aluminium, aluminium alloy, North American Special Aluminium Alloy Contract (“NASAAC”), cobalt, copper, lead, nickel, tin and zinc). These requirements are designed to ensure that metal eligible for delivery against LME contracts (LME-listed brands) appropriately embodies relevant responsible sourcing standards.

This paper outlines the core features of the LME’s requirements, but full details are provided in its associated appendices which constitute the LME’s responsible sourcing rules, as follows:

- (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 (“RFA”) template

In due course, the LME may publish a companion guidance document, which will provide further information on various matters in respect of the operationalisation of these requirements, designed to provide information and assistance to LME-listed brands as they identify – and complete – their route to compliance. Any market participant with questions in respect of any aspect of the LME’s responsible sourcing requirements is encouraged to contact the LME at [responsiblesourcing@lme.com](mailto:responsiblesourcing@lme.com).

All the information contained within this document (the “Information”) is provided for guidance and background purposes only. This document may be updated from time to time to reflect changes to the Policy resulting from either changes to OECD Guidance (defined below) or otherwise. In the event of any conflict or inconsistency between the Information and the Policy, the Policy shall prevail. Recipients of the Information should consult the LME website for further information on the Policy. Neither the LME, nor any of its affiliates makes any warranty or representation, express or implied, or accepts any responsibility or liability for, the reliability or suitability of the Information for any particular purpose.

## 2. LME RATIONALE

The LME is taking action for three intrinsically linked reasons, as follows:

- **Collective ethical responsibilities.** The LME believes that its industry has an ethical imperative to embrace principles of responsible sourcing – and therefore, the LME has a key role in facilitating this. The LME is a seller's market, which means that a buyer of metal may be delivered metal of any LME-listed brand. The LME cannot accept a situation where consumers are required to take delivery of metal which is not responsibly sourced
- **Commercial imperative.** The fundamental service of the LME is to price metals – and, by the nature of its market, the LME price will generally be the price of the least valuable brand in the brand lists. The LME must act to ensure that its price reflects the value of responsibly sourced metal, and is not artificially depressed by metal which is not sourced in such a manner
- **Providing leadership for the global metals industry.** LME stakeholders all demand responsible sourcing – and the metals industry must collectively live up to the responsibility. The LME has listened to calls for it to take a leading role on responsible sourcing – calls which arise because the LME can most efficiently promote a centralised process. And the LME can do this in a manner which leverages the LME's embedded knowledge of the metals market, respects the logistical challenges, builds on existing work in the sector, and provides appropriate time and support to producers in meeting these requirements

The LME sees these drivers as entirely complementary. The ultimate arbiter of ethics must be the global consumer; increasingly, consumers are standing up for their ethical beliefs, and demanding that the products they purchase are made from responsibly sourced metal. And those who work in the metals industry also bring strong ethical views on the activities of their own companies. Given this combination, then, the entire supply chain must react, and it becomes the commercial interest of all participants to provide responsibly sourced metal.

### 3. FEATURES UNDERPINNING THE LME REQUIREMENTS

The following principles encapsulate the foundation of the LME's approach to responsible sourcing:

- **The twin tools of transparency and standards.** Transparency sits at the heart of the LME's strategy; it allows consumers to understand the steps being taken by brands in respect of responsible sourcing, and drives consistency in the application of standards across and within industries. Equally, the LME recognises that if it is to request such transparency from its producers, then those 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; further, that the provision of such transparency will not reveal confidential sensitive information about their company. 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 requirements.

At the same time, the LME also 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.

This is why the LME's requirements build on 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 both minimum standards and transparency from all brands, wherever they source their metal. Through OECD compliance, the LME market will meet these dual obligations.

To facilitate this, and in recognition that many models exist for achieving this end, the LME is providing a number of tracks through which brands may achieve such compliance, fully inclusive of transparency requirements. The LME will be monitoring this intersection of standards and transparency carefully to ensure that the resulting transparency meets globally-accepted requirements in order to drive progress. In the event that the LME does not believe that reporting meets these requirements, it reserves the right to increase its expectations in respect of such transparency to ensure that this progress continues. The LME believes that 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 positively

- **No discrimination between large-scale and artisanal / small-scale mining.** Both forms of mining clearly carry differing, but equally important, risks and challenges. In acknowledging these, the LME recognises that risk assessments must be tailored to the circumstances. Therefore, the LME sets out to provide equally meaningful set of requirements for both large-scale and artisanal / small-scale mining.

This is particularly relevant in two areas. Firstly in allowing sufficient time for artisanal / small-scale mining to comply with the relevant requirements, the LME is recognising that this industry has further to travel in order to meet globally-accepted standards for responsible sourcing, and that without the provision of adequate time to achieve this, the LME will be unfairly disadvantaging those legitimately working in artisanal or small-scale mines.

Secondly, in prioritising Extractive Industries Transparency Initiative (“EITI”) reporting, the LME is acknowledging the potential for financial crime arising from large-scale mining and the resulting need for transparency. This is why those producers using the RFA will be required to confirm whether they facilitate the disclosure of potential financial crime and corruption risks under EITI, thus addressing one of the key concerns in respect of large-scale mining. Producers utilising a standard will be obliged to meet the requirements of that standard in respect of EITI reporting (in line with the OECD Guidance), and the LME will monitor all associated reporting to ensure this issue is meaningfully addressed. 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 to 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), if they so wish. And because these standards define audit approaches, the most appropriate auditors will be positioned to assess compliance.

The first stage is the establishment of company management systems and 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 – and facilitating it by providing a specific red flag assessment template for those brands which choose to use it – 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 facilitating the identification of red flags, and the 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 are clear and achievable. As outlined above, the LME has detailed a number of tracks through which its brands may achieve OECD-compliance, designed to leverage existing work and provide both risk- and preference-based optionality, as well as a clear and practical structure for those who are new to the field of responsible sourcing

## 4. LME REQUIREMENTS

### 4.1. Overview

The LME's approach is based on the OECD Guidance, and adopts the OECD five-step framework for risk-based due diligence in the mineral supply chain ("OECD five steps"), as outlined in Annex 1 of the OECD Guidance. The exception to this is producers of tin brands, for whom the full OECD Supplement on Tin, Tantalum and Tungsten ("3T supplement") will apply, given that the supplement was specifically designed for tin (as well as tantalum and tungsten).

For all brands, the OECD five steps can be summarised as follows:

- **Step 1:** Establish strong company management systems
- **Step 2a:** Identify risks in the supply chain
- **Step 2b:** Assess risk of adverse impacts
- **Step 3:** Design and implement a strategy to respond to identified risks
- **Step 4:** Carry out independent third-party audit of supply chain due diligence
- **Step 5:** Report on supply chain due diligence

While the LME accepts that there is some debate about the applicability of these steps depending on the results of the risks identification process, the LME believes brands which identify red flags in their supply chains are required to complete all five steps, while those which do not find red flags are required to complete the relevant elements of Steps 1 and 2a. However, the LME agrees with broad market consensus that it is difficult, if not impossible, to assess the accuracy of Steps 1 and 2a without some form of audit, assurance or verification<sup>1</sup>. As such, the LME is asking its brands to provide such evidence through a variety of possible tracks, as outlined below. Further, in line with the core features of the LME requirements, the LME is strongly of the opinion that transparency is essential to the progression of responsible sourcing initiatives, and as such, considers that transparency remains a core requirement for all its listed brands.

To this end, while the OECD five steps of Annex 1 remain the core of the LME requirements, the LME believes that there exist a number of areas where it is more appropriate or useful to adopt elements from other sections of the OECD Guidance, and so has assumed a broad interpretation of this in several key aspects:

- **Application of the 3T red flags.** Although the LME is satisfied that it is appropriate for base metals to be able to use the OECD five steps, this section does not include any description of red flags, which are crucial to the application of the OECD Guidance. As such, the LME believes that the red flags as defined in the 3T supplement can and should apply to all base metals (as well as tin) and this is the approach adopted by the LME Red Flag Assessment ("RFA").

The LME will also accept the use of red flags as defined in the OECD Supplement on Gold ("gold supplement"). For the avoidance of doubt, this approach may be used even in respect of producers whose listed brand is not gold.

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<sup>1</sup> The LME understands that the use of audit vs. assurance is not uniform within the responsible sourcing world. For clarity, the LME will accept either process of verification, as long as (i) the process is consistent with the requirements of an external standard for those on track A, and / or (ii) conducted by a professional included on the LME's list of recognised auditors. For the avoidance of doubt, references to "audits" and "auditors" throughout this document can be taken to mean either auditor or assurer for the purposes of LME compliance, as appropriate to the preferences of the relevant brand and / or standard

Although the LME is not requiring the use of the 3T supplement more broadly, it continues to believe that it provides relevant guidance and some helpful interpretations of corresponding sections in the main OECD Guidance, and would encourage producers to review the 3T supplement for such information. Further, if any producer would like to voluntarily comply with the 3T supplement (or indeed, the gold supplement), the LME would have no objection

- **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 gold supplement, which provides the most comprehensive assessment of risk indicators for CAHRAs, with the following two exceptions:
  - Existing standards which have already been alignment assessed, and which prefer to maintain the CAHRA definition from the main section of the OECD Guidance if this is already incorporated within the standard
  - CAHRAs as defined under the EU Conflict Minerals Regulation (“CMR”), due to come into effect in January 2021. The current expectation is that the EU will publish a list of CAHRAs under the CMR, and it is the LME’s current intention (subject to reviewing the list) that it will accept CAHRA definitions based on this list once it is publically available
- **Commitment to transparency for all brands.** The OECD Guidance may be interpreted to suggest that the transparency required under Step 5 is only required when the red flags are engaged. However, the LME believes, in line with much of its market and consistent with its commitment to transparency, that all LME brands should provide public disclosure over their efforts in respect of responsible sourcing. As such, the LME will require all its listed brands to provide such transparency, consistent with their chosen route to compliance.

Producers complying through the use of an external or internal OECD-aligned standard (be that voluntarily or as a result of the identification or red flags in the supply chain) will be expected to publish Step 5 reporting in line with the OECD Guidance (although the LME notes that both the 3T and gold supplements provide greater clarity and guidance in terms of the content of Step 5 reporting, and the LME would encourage its brands to refer to these supplements when providing this transparency). Further, while the LME believes that Step 5 reporting is well-established, it does not yet believe that such reporting meets the standard expected by the LME, or indeed, the OECD and broader market actors. The LME is working with the OECD and standard providers to ensure that such reporting rises to meet the global expectations, and will reserve the right to require greater transparency in the future should reporting not become more comprehensive.

As an alternative route to compliance, and in line with the LME’s commitment to a pragmatic and clear process, the LME is also providing a standard-form template – the RFA – which can be completed at low cost to assess supply chain red flags, and either audited (with appropriate Step 5 transparency) or fully published to the broader market (on a phased timeline) to provide a subset of common disclosure which will encourage challenge, but not compromise commercial confidentiality. This includes Extractive Industries Transparency Initiative (“EITI”) disclosure as to potential financial crime risks.

The publication of the RFA also offers a secondary benefit, in that it allows a level of review by the market (following the LME’s own review), whereby all market stakeholders will be able to

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review published RFAs. This two factor level of assurance will help provide clarity and ensure consistency.

- **Commitment to workplace health and safety and other responsible sourcing concerns.** In the first instance, the LME expects brands to work towards ISO 14001 and OHSAS 18001<sup>2</sup> standards, or equivalent.

The LME fully recognises that there exists a full spectrum of responsible sourcing concerns, and the LME's requirements incorporate only a sub-section of these on the basis of (i) their relevance to the LME market, and (ii) those 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 a greater risk than those outlined in the OECD Guidance; further, that much work has been undertaken, including by the United Nations, and as incorporated with the OECD's Guidelines for Multinational Enterprises, 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 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.

As a final point, for clarity, and in line with the OECD Guidance, the LME's requirements do not include secondary or recycled metal. However, this is not to say that the LME is not interested in the challenges facing secondary and recycled materials in terms of traceability, and will continue to work with the market to offer support and input where that would be of use. Further, the LME would welcome voluntary reporting on the part of producers of secondary or recycled metals, and the potential transparency that this engenders; however, it will only be running its framework and assurance process for primary metal.

Through fulfilment of the above, and utilising the tracks outlined below, the LME believes that all its brands will be able to achieve compliance with the OECD Guidance. In view of the principles and features already outlined, 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 of the LME rules, and its application of the existing responsible sourcing initiatives.

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<sup>2</sup> 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 during the three years following 12 March 2018 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>

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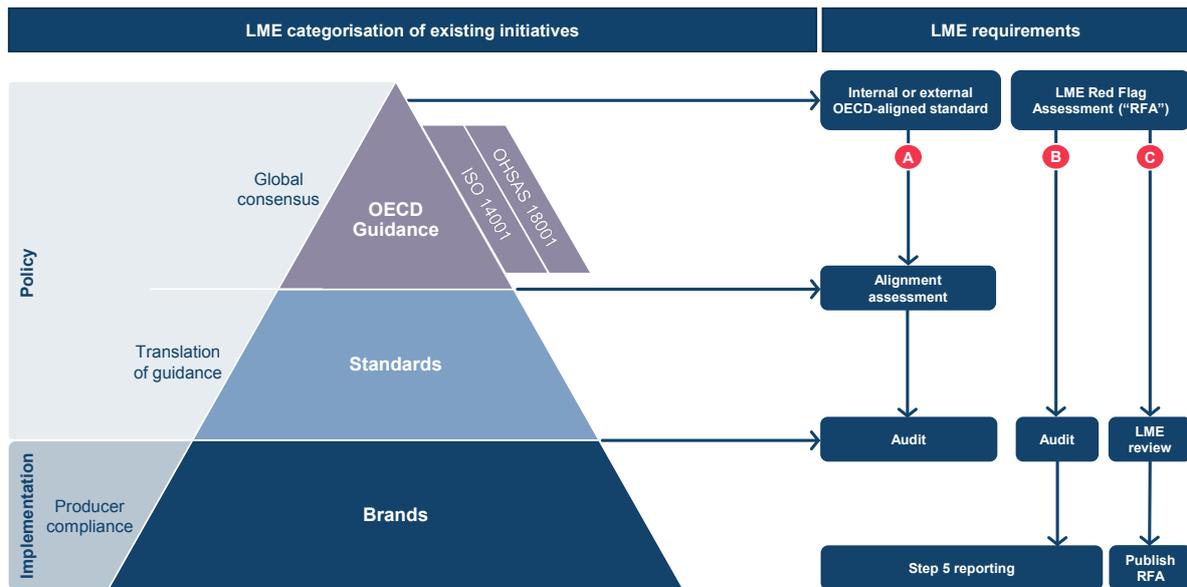


Figure 1: LME framework for responsible sourcing

### 4.2. Brand compliance

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 utilise the OECD’s five-step framework, which allows for a risk-based methodology to assess the focus which should apply to the listed brands of each metal. Further, the LME understands that a number of factors go into a brand’s decision making process when choosing its route to compliance. The LME wishes to respect this by providing optionality in terms of tracks to compliance which should allow brands to tailor compliance to their existing processes, as summarised in Figure 2.

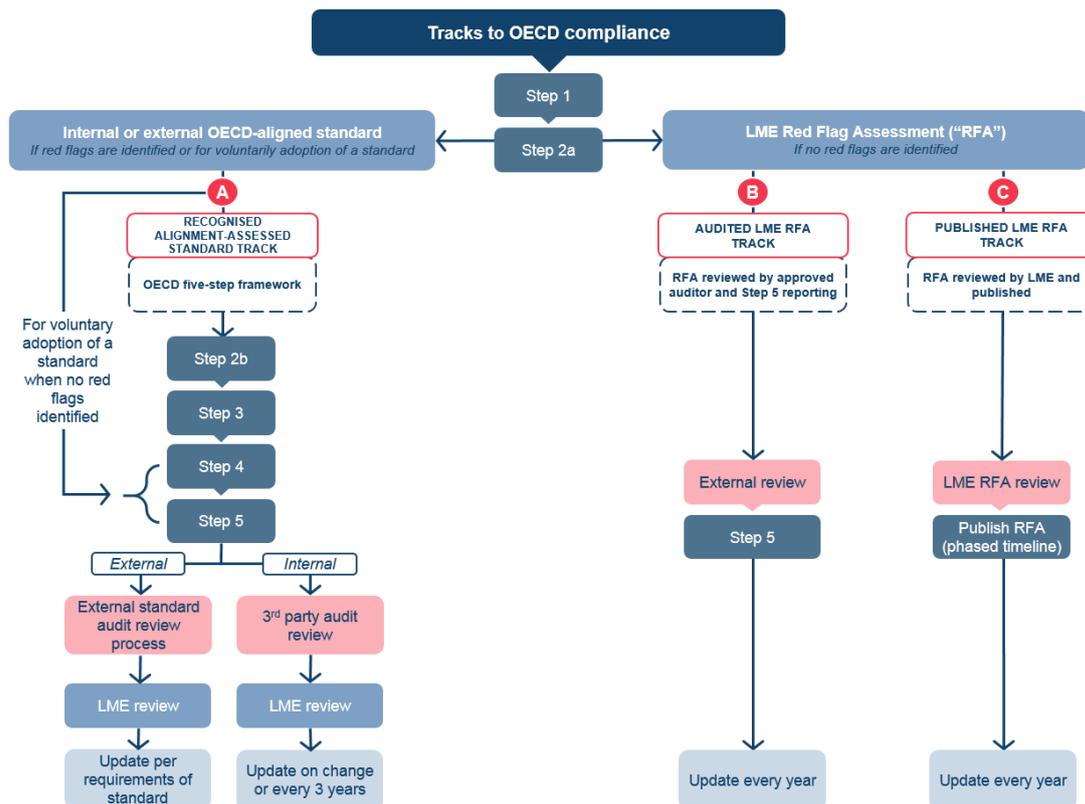


Figure 2: Tracks to OECD compliance

#### 4.2.1. Track A: Recognised alignment-assessed standard track

The use of an internal or external OECD-aligned standard is available for (i) all brands which have identified red flags in their supply chain, (ii) brands which have not identified red flags, but wish to use a standard to demonstrate their compliance with the applicable OECD five steps, and (iii) those brands which voluntarily wish to complete all five steps of the OECD Guidance.

The producer of any brand falling into these three categories will be expected to undertake the following steps:

- **Identify a standard.** Producers 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. The LME is aware that alignment assessment is not a “binary” process and acknowledges that alignment assessment audit results will be qualified in places; accordingly, that 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.

Further, the LME is also conscious that there exist many standards which have not yet been alignment-assessed, as well as new standards which are still in development.

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In order to achieve alignment assessment, standards must demonstrate the two key components of alignment assessment; namely, (i) the first component, being the extent to which the recommendations from the OECD Guidance have been incorporated into the programme's policies, standards, procedures and operating requirements set out for companies, and (ii) the second component, being the extent to which it can be reasonably concluded that the criterion is implemented by the programme, including by deploying the necessary measures to ensure compliance and securing adequate remedial action in cases where companies participating in the programme and / or auditors do not adhere to the programme's policies and standards (when applicable to them). This is laid out in the OECD Methodology for the Alignment Assessment of Industry Programmes with the OECD Minerals Guidance, and the Alignment Assessment Tool ("OECD alignment assessment methodology").

Given the potential time required to complete this process – and the LME's interest in ensuring the development of new standards to address existing gaps – standards can achieve "conditional" alignment assessment if they have passed the first component assessment but do not yet have sufficient implementation data to pass the second. LME-listed brands will then be able to select one of these conditionally approved standards to achieve compliance via the recognised alignment-assessed standard track (track A), noting the extant risk that the standard does not subsequently pass the second component of the alignment assessment (albeit LME is confident that no standard would initiate this process should they not be willing to do the work to ensure they achieve full alignment). This solution will increase the optionality for brands and reduce the pressure to achieve full alignment assessment within potentially infeasible timelines.

The LME will also reserve the right to consult the OECD on the results of any alignment assessment before providing final approval.

For standards which have already been alignment-assessed, the LME will not require a second alignment assessment to be conducted; however, it will ask to review the results of the existing alignment assessment before providing final approval. Similarly, standards which undergo alignment assessment to comply with the requirements of another body or regulation (such as the EU CMR, for example) would also be eligible to submit those results to the LME for consideration, rather than commissioning a second alignment assessment.

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 (either on a fully aligned basis, or conditional alignment as outlined above) 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 and qualified to undertake an alignment assessment and would proposed to publish this list on the

LME website, which it will update from time to time. 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. Should either the OECD Guidance, or the standard, undergo substantive change, the LME will expect that the alignment assessment is re-performed to ensure ongoing consistency. The brand's next audit would then be expected to be conducted against revised the standard.

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 is working 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.

The LME is conscious that even with the possibility of conditional alignment assessment as outlined above, the LME's timelines as described in this report are premised on the availability of sufficient alignment-assessed standards. 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 – however, the LME's current expectation is that such standards will be available

- **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, it is expected that these internal standards (and associated audits) will follow the OECD Guidance in addressing all risks, including those covered in Annex II of the OECD Guidance. However, 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 at least every three years and, in any event, following material change to the standard, to confirm ongoing compliance. All related audit documents must be submitted to the LME

This process is outlined in Figure 3.

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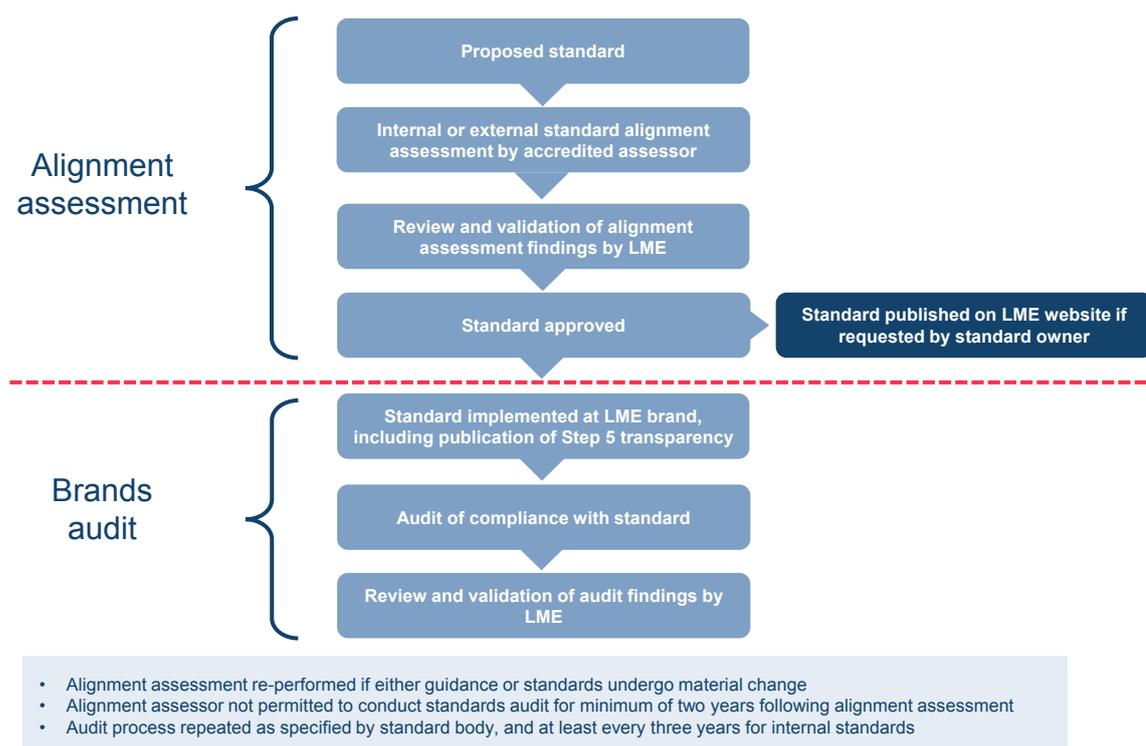


Figure 3: Track A – compliance process for the recognised alignment-assessed standard track

In terms of transparency of available standards, as outlined above, the LME intends to provide 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 details of such standards on its website.

In respect of transparency of the audit results, the LME will require that public disclosure is undertaken in line with the requirements outlined in Step 5 of the OECD Guidance, and in accordance with the requirements of the relevant standard.

All brands on the recognised alignment-assessed standard track will also be required to comply with the LME's ISO / OHSAS requirements outlined in Section 4.3.

### 4.2.2. Tracks B and C: Audited and published LME RFA tracks

The LME understands that OECD-aligned red flag identification 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, their primary aim is to translate the 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 can mean that there is some confusion as to what would be considered core for such an assessment generally, and for the purposes of the LME's requirements specifically. Further, when considering its responsible sourcing requirements, and in light of the LME's commitment to pragmatism, the LME has endeavoured to provide tracks to compliance which do not require the use of a standard and / or an external audit.

To this end, the LME has developed its Red Flag Assessment (“RFA”) template, which defines the information which the LME would expect to receive as part of a red flag assessment. The completion of this template will allow LME brands to determine whether they raise red flags in their supply chain. Any brands discovering red flags will automatically need to comply through the recognised alignment-assessed standard track (track A), but brands which do not then have a choice to either submit the RFA template to the LME for review and verification (track C), or to submit it for an external, third party audit to achieve the same end (track B); the subsequent transparency requirements will depend on the track chosen. Of course, as noted above, some brands may equally choose to comply through track A even in the absence of red flags, either because they wish to use a standard to demonstrate their compliance with the applicable OECD five steps, or because they wish to voluntarily complete all five steps of the OECD Guidance.

Although the LME is conscious that its reporting template may be constructed differently to those already in use in the market, it is the LME’s expectation that much of the information required for the LME process will be comparable to 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” or adapt the form of 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 track chosen, the producer itself will remain wholly accountable for both the submission, and the accuracy of the reporting contained therein.

Finally, the LME is reserving the right to make reasonable changes to the RFA to more closely align with current and future versions of the OECD Guidance without formal consultation.

### **4.2.3. Track B: Audited LME RFA track**

Figure 4 outlines the compliance process for those brands which wish to complete the RFA and submit it for an external, third party audit (track B).

The brand will be required to complete the RFA and appoint an independent third party auditor to assess the validity of the information contained therein. The LME proposes to maintain a list of recognised auditors who, in the opinion of the LME, are competent to undertake such an assessment and would propose to publish this list on the LME website (subject to the permission of the auditors in question), which it will update regularly.

Once the audit is complete, and assuming the auditor concurs that the relevant supply chain contains no red flags, the audit results will be submitted to the LME for review. It may be necessary for the LME to revert to the brand producer or auditor with questions or clarificatory requests following an initial review. Otherwise, the LME will ratify the results and require that public disclosure is undertaken in line with the requirements of Step 5 of the OECD Guidance.

The producer will be required to review and update the RFA for each of its brands annually to ensure that their risk profile has not changed over the preceding year, or indeed, that they do not require an alternative track to compliance. The external audit (with the results submitted to the LME) and transparency requirements will also be repeated annually.

All brands on the audited LME RFA track will be required to comply with the LME’s ISO / OHSAS requirements outlined in Section 4.3.

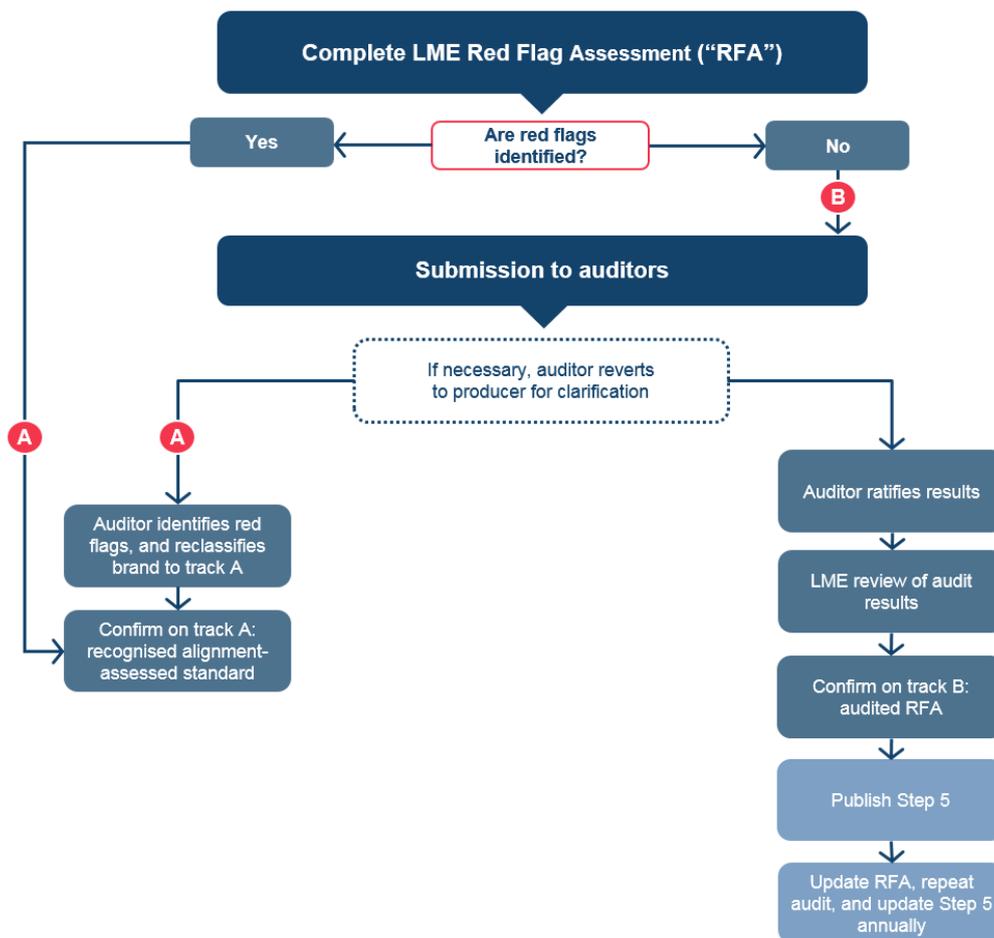


Figure 4: Track B – compliance process for the audited LME RFA track

#### 4.2.4. Track C: Published LME RFA track

As with the audited LME RFA track (track B), the LME wanted to provide a route to compliance which did not require the use of a standard. Track C – the published LME RFA track – goes even further by ensuring that brands can comply without requiring a standard, or the use of an external audit.

Instead, brands achieving compliance via the published LME RFA track will be required to complete the RFA template and submit it to the LME for review and verification 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 5. The LME will either confirm the producer’s assessment, or reject it and reclassify. If the producer does not agree with the LME’s assessment, the LME will engage with that producer to fully understand, and resolve, the discrepancy.

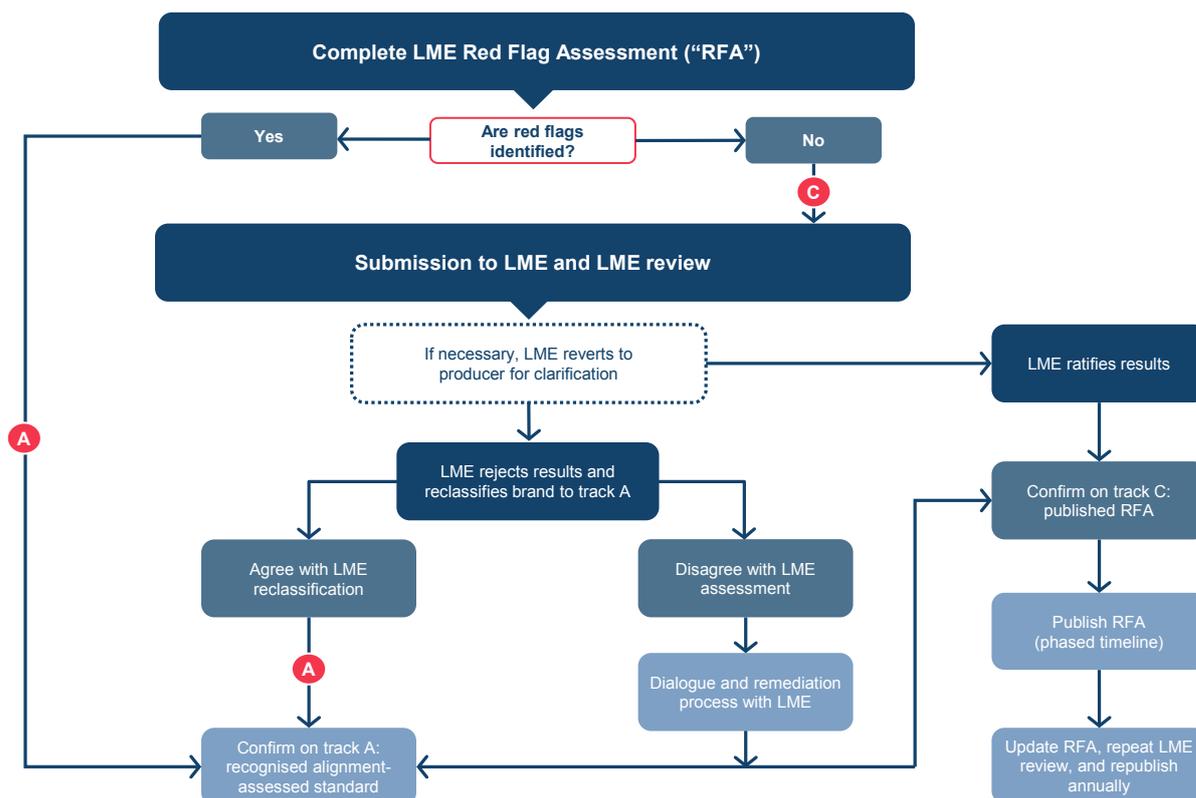


Figure 5: Track C – compliance process for the published LME RFA track

As set out above, brands complying via track C will not be required to undertake an audit against a standard; however, they will be required to review and update the RFA annually to ensure that their risk profile has not changed over the preceding year, or indeed, that they do not require an alternative track to compliance. The LME will review all such assessments to confirm its agreement with the resulting outcomes.

The final stage of track C relates to transparency. Alongside the LME’s review of all submitted RFA templates, the LME also believes that the publication of RFAs will act as a second level of “audit” of the information contained therein, allowing other producers, civil society and non-governmental organisations (“NGOs”), industry bodies, regulators and other interested parties to diligence the information provided and ensure its accuracy.

That said, the LME is conscious that it will be the first Exchange require the publication of responsible sourcing risks 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 6.

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. This will allow brands to refer to the work undertaken in the RFA processes of other LME-listed brands on track C, as well as providing time for the market more broadly to become familiar with the type of reporting it can expect to see. In year five post-implementation, the LME will require all brands to publish the RFAs in full.

Finally, all brands on the published LME RFA track will be required to comply with the LME’s ISO / OHSAS requirements outlined in Section 4.3.

Publication date	RFA results	
31-Dec-22	Y1	Summary statistics
31-Dec-23	Y2	Summary statistics
31-Dec-24	Y3	Anonymous versions
31-Dec-25	Y4	Anonymous versions
31-Dec-26	Y5 and onwards	Attributed versions

Figure 6: RFA transparency

The LME will work with all its producers to ensure that they have fully understood the three possible tracks to compliance, and chosen one that works appropriately for them, reflecting their brand’s individual profile. Any producer not engaging with the compliance process may be subject to Brand Action as defined in Section 4.6.

### 4.3. ISO 14001 and OHSAS 18001 / ISO 45001 certifications

In parallel to brand compliance, all LME-listed brands will be expected to obtain ISO 14001 and OHSAS 18001 / ISO 45001 certifications, 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 for the smelter (or equivalent, in all cases being the final substantive step resulting in the production of LME grade metal) and keep these updated in line with the requirements of the standards body.

Should a producer 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 producer 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 producer 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

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 requirements, the LME has had to take on a role of recognising alignment assessors, auditors for internal standards

## Overview of LME responsible sourcing

under track A and RFAs in track B, ratifying RFA results in track C, assessing the sufficiency of the alignment assessment of standards, the final check of audit reports in tracks A and B, 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.

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 participant 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, both for its validity, and against the information provided by the brand (including, but not limited to, its RFA or audit reports as 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 timeline for compliance is outlined below, amended from the original proposals to allow sufficient time for appropriate process and systems development at both large-scale and artisanal / small-scale mining, 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:

- **First reporting period.** The LME’s responsible sourcing reporting periods will run for a full year. Reporting periods for producers following the recognised alignment-assessed standard track (track A) will be set by the relevant internal or external standard. For producers following both the audited and published LME RFA tracks (tracks B and C), the LME’s base case first reporting period will run from 1 January 2021 to 31 December 2021.

However, the LME recognises that some brands may wish to align their reporting period with existing reporting periods already embedded within their firm (possibly set by the financial year or other annual audit dates). The LME is happy for brands to define their own “reporting years”, and for the first reporting date (see below), the Exchange will accept “stub-year” reports. For example, a brand may wish its responsible sourcing reporting year to run from the beginning of April to the end of March the following year. Its first reporting period, therefore, would be 1 January 2021 to 31 March 2021, and the reporting it would submit on the first reporting date would cover those three months only. In 2023, however, that brand would then report on the period 1 April 2021 to 31 March 2022. In this way, all brands will ultimately cover a full year in their individual reporting periods

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- **First reporting date.** This is the date by which producers under track A must have confirmed to the LME that they will be following the recognised alignment-assessed standard track, and the name of their proposed standard, or have submitted the audit of the RFA to the LME (track B) or the RFA itself (track C)
- **Standard to be accepted as a recognised alignment-assessed standard.** In respect of brands following the recognised alignment-assessed standard track (track A), this is the date by which identified standards (internal or external) must have successfully (in the assessment of the LME) undergone an 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 brands following the recognised alignment-assessed standard track (track A), 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
- **Transparency.** This is the date by which the LME will have expected its listed brands following the audited and published LME RFA tracks (tracks B and C) to have met their transparency reporting requirements. For recognised alignment-assessed standard track brands, the transparency schedule will be set by the standard
- **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 30 June 2022 are set out in Figure 7. However, the LME recognises that there are a number of cases where this timeline needs to be adapted, such as brands listed after 30 June 2022, or brands which change their compliance track for any reason following the implementation of the LME's responsible sourcing requirements. The expectations for these brands are detailed in the LME Policy on Responsible Sourcing of LME-Listed Brands.

## Overview of LME responsible sourcing

Action	Tracks to OECD compliance		
	A: Recognised alignment-assessed standard track	B: Audited LME RFA track	C: Published LME RFA track
First reporting period	N/A (reporting periods will be as prescribed by standard)	1 Jan 2021 to 31 Dec 2021	1 Jan 2021 to 31 Dec 2021
First reporting date	30 Jun 2022 Submit confirmation will be track A brand, and proposed standard	30 Jun 2022 Submit audit results	30 Jun 2022 Submit RFA template
Standard to be accepted as recognised alignment-assessed standard	31 Dec 2022	N/A	N/A
Audit of brand to standard to be completed	31 Dec 2023	N/A	N/A
Transparency	As prescribed by standard	31 Dec 2022 Step 5 reporting	31 Dec 2022 + 2023 – summary statistics 31 Dec 2024 + 2025 – anonymised reports 31 Dec 2026 onward – attributed reports
Update frequency	As prescribed by standard	RFA updated (with audit and Step 5 reporting) annually	RFA updated (with LME review and publication) annually
ISO 14001 and OHSAS / ISO 45001 (or equivalent certification programmes) certifications completion	31 Dec 2023 (Certification programmes to be accepted as equivalent certification programmes by this date) (and updated on timeline prescribed by certification programmes)		

Figure 7: 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 metal of the specific brand could be warranted (or re-warranted) at an LME warehouse. 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 if it is necessary.

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

## Overview of LME responsible sourcing

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 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 principles. Accordingly, the LME's 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 the overarching objective criteria set out in the Policy.

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 remains committed to ensuring that all brands listed for good delivery on the Exchange are consistent with globally accepted standards for responsible sourcing, and believes that the above requirements represent a fair, balanced and practical route forward to achieve such an end. The LME would like to thank all its stakeholders and other market participants, many of whom have invested considerable time and effort in helping the LME to refine its proposals, and it looks forward to continuing to work with its market – and in particular, its listed brands – as these requirements are implemented.

## 6. APPENDICES

Appendix A: Part 7 of the LME Rulebook;

Appendix B: LME Policy on Responsible Sourcing of LME-Listed Brands;

Appendix C: LME Red Flag Assessment template