



An HKEX Company



Member Jurisdictions Policy

1 Policy Statement

- 1.1 This Policy sets out the approach of The London Metal Exchange (the “LME”) and LME Clear Limited (“LME Clear”) (the LME and LME Clear together the “LME Group”) to addressing the costs involved in permitting access to the facilities of the LME Group by Members of LME and/or LME Clear (“Members”) from given jurisdictions.

2 Background

- 2.1 Many jurisdictions around the world place restrictions on access to derivatives trading and/or clearing services from that jurisdiction, whether by legal entities incorporated / domiciled in that jurisdiction, or by persons physically located in that jurisdiction. This means that, before allowing access to its facilities from a jurisdiction, the LME Group must take expert legal advice from external counsel based in that jurisdiction, in order to work out whether, amongst other things, (a) there are any restrictions on the way in which the LME Group may offer its services in that jurisdiction, (b) any form of licence or exemption is required in order to offer its services in that jurisdiction, and (c) there are any ongoing notification or reporting obligations to the regulator in that jurisdiction. Obtaining external legal advice comes with a cost; equally, if a licence / exemption is required, and/or if there are ongoing notification or reporting obligations, then there will be costs attaching to this. Notably, regulatory reporting regimes vary from jurisdiction to jurisdiction and the MiFID II reporting obligation for third country firms, for example, is an additional burden that the LME Group would need to resource and satisfy as part of facilitating Member access.
- 2.2 This work also consumes internal resource within the LME Group (which also comes with a cost). As a rule of thumb, the work is most time-consuming, and expensive, when the LME Group receives a request from a Member incorporated / domiciled in a jurisdiction (as opposed to merely facilitating access to systems from staff physically located in a jurisdiction): this is because this often gives rise to a licence / exemption (with initial costs, both in terms of the application itself and the external legal advice), and ongoing notifications / reporting obligations (with ongoing costs attached).
- 2.3 When it has received requests from Members to facilitate access from a new jurisdiction, the LME Group has historically borne the relevant costs itself, and is now able to facilitate access from a range of jurisdictions (see further section 3 below). Generally it has facilitated access from a new jurisdiction where it is satisfied that it (a) will enhance the orderly operation of its market, and (b) there is a reasonable business case for doing so. Factors (a) and (b) align most effectively where the LME is satisfied that access from a new jurisdiction will materially enhance the pool of liquidity available to participants on its market.
- 2.4 More recently, however, the LME Group has received a number of requests from a single existing Member, or from a single existing client of a Member who wishes to become a Member, to facilitate access from a new jurisdiction. These requests are often as a result of, for example, intra-group reorganisations or cost saving measures at the entity. In these cases, it seems



unlikely that facilitating such an application will materially enhance the pool of liquidity available to market participants, or otherwise enhance the orderly functioning of the LME's market.

- 2.5 As a result, the LME Group believes it is appropriate to implement a policy allowing it the flexibility to recover costs associated with access to its facilities from a new jurisdiction in certain circumstances.

3 Accessible Jurisdictions

LME

- 3.1 The LME offers trading access to Members located in a number of jurisdictions. In respect of certain jurisdictions, conditions apply to such access, and these are set out in the LME Jurisdictions Document. The Jurisdictions Document sets out the jurisdictions from which Members may access the LME's facilities and any conditions for Members wishing to access the LME from these jurisdictions. The Jurisdictions Document is updated from time to time and is available at <https://www.lme.com/-/media/Files/About/Regulation/Regulation-page/Jurisdictions/2019-05-07-Jurisdictions-Document.pdf?la=en-GB>.
- 3.2 As of the date of this Policy, the LME permits access to its facilities of some sort¹, subject to the relevant conditions in the Jurisdictions Document, from the following jurisdictions:
- England and Wales
 - The EEA²
 - Australia
 - Canada (Ontario)
 - Dubai (DIFC only)
 - India
 - Japan
 - PRC
 - Singapore
 - South Africa
 - Switzerland
 - USA

LME Clear

- 3.3 LME Clear also offers clearing access to Members from only certain jurisdictions. LME Clear must undertake detailed legal and regulatory analysis before it is able to provide access to its clearing facilities from a particular jurisdiction. This is because LME Clear is exposed to the

¹ This list includes jurisdictions from where access is permitted by (a) Members incorporated / domiciled in that jurisdiction, and (b) persons physically located in that jurisdiction – please refer to the Jurisdictions Document for further details.

² This may change after the end of the "Brexit" transition period, and be limited to certain individual jurisdictions within the EEA: France, Germany, the Netherlands and Norway.



credit risk of Members and certain aspects of that relationship may fall to be determined by the law of the jurisdiction in which the Member is incorporated.

3.4 LME Clear is currently able to admit (certain types of entity) from the following jurisdictions:

- England and Wales
- France
- Germany
- The Netherlands
- Norway
- USA
- Canada (Ontario)³
- Switzerland
- Australia⁴

3.5 In relation to the USA, LME Clear can admit the following entities without requiring additional jurisdictional analysis: (i) any entity incorporated and headquartered in New York or Illinois and (ii) any national bank or FCM subject to federal insolvency proceedings and headquartered in New York or Illinois but incorporated elsewhere. Any other type of entity may require additional analysis.

4 LME Group Jurisdiction Tiers

4.1 Through this Policy, the LME Group establishes three “Tiers” of overseas jurisdictions. These are listed in the Appendix and will be published on the LME website from time to time.

Classification

4.2 The Tier 1 Jurisdictions are in effect the LME’s “core jurisdictions”, from where it always expects the need to facilitate access. From the end of the Brexit transition period:

- LME Clear anticipates having the ability to offer clearing services across the EEA;
- In respect of the LME, it will initially be able to offer access to its facilities from only France, Germany, the Netherlands and Norway, but, should additional jurisdictions be required, the LME will consider these in line with paragraph 5.2 below.

4.3 The Tier 2 Jurisdictions are jurisdictions outside the UK / EEA where there are Members incorporated / domiciled or those from where LME Group is able to provide access without undertaking further legal or regulatory work.

4.4 The Tier 3 Jurisdictions are jurisdictions not listed in Tier 1 or Tier 2.

Please Note: A jurisdiction may be in different tiers for trading and clearing as specified in the Annex.

³ Although LME and LME Clear have each obtained exemptions in Ontario, LME Clear must still undertake some legal analysis before it is able to admit Members from this jurisdiction.

⁴ LME Clear does not currently need a regulatory licence to offer its services in Australia, but may do in the future and therefore each prospective application for Membership is considered on a case-by-case basis.



Reclassification

- 4.5 The LME may update or amend the Tiers themselves, or which jurisdictions fall into which Tiers, at any time at its sole discretion, acting reasonably and taking into account relevant legal or regulatory requirements.
- 4.6 Should the LME Group not have any Members from a Tier 2 jurisdiction, it may reclassify such jurisdiction as a Tier 3 jurisdiction at its discretion.

5 Facilitating Access to New Jurisdictions

- 5.1 The LME Group may from time to time be approached by a potential Member which is incorporated / domiciled in a jurisdiction that is not, and is not determined to be, a Tier 1 or Tier 2 jurisdiction, or that is a Tier 1 or Tier 2 jurisdiction in respect of trading activities only. In these circumstances, the LME Group may request that the entity underwrite any costs associated with facilitating this, so that, if it has not become a Member within a timescale to be determined (and communicated to the applicant) by the LME Group, they shall be obliged to pay an amount to the LME equal to the costs which it incurred. The LME has a standard form of undertaking in respect of costs which can be given and agreed by email and is available from the Market Access team.
- 5.2 Notwithstanding the above, the LME Group shall be under no obligation to proceed with a request to facilitate access from a particular jurisdiction. When deciding whether to proceed with any request, the LME shall consider, amongst other things, the following factors:
 - Whether there is an existing legal or regulatory requirement to allow access from that jurisdiction;
 - Whether there is a commercial rationale for allowing access from the jurisdiction;
 - Whether providing access from the jurisdiction is in the overall interests of the market;
 - Whether the legal and regulatory risks can be managed satisfactorily without incurring significant additional costs; and
 - Whether there are sufficient internal resources (including, without limitation, in relation to staff and IT) to proceed with the request.



6 Access Facilitation Fee

- 6.1 From 2021 onwards, the LME Group intends to introduce an “access facilitation fee” (“AFF”) into its Fee Schedule that is payable by overseas Members meeting certain criteria. This is intended to cover the ongoing costs of maintaining relevant licences / exemptions and complying with the relevant notification / reporting requirements.

7 Governance

- 7.1 This Policy is owned by the Head of Market Access and will be reviewed on an annual basis.
- 7.2 This Policy will be published on the LME website. This Policy, and the relevant Tiers and jurisdictions within each Tier, may be amended from time to time by the LME with or without notice by updating this Policy and publishing it on the LME website.



Appendix - Tiers

Tier 1 Jurisdictions

The UK

The EEA

Tier 2 Jurisdictions

The USA

Switzerland

Australia

Tier 2 Jurisdictions for trading only

Ontario

DIFC

Singapore

Tier 3 Jurisdictions

Any jurisdiction not listed in Tier 1 or Tier 2, including those jurisdictions that are listed in Tier 2 for trading only.

