



To: All members and other interested parties

Ref: 20/254

Classification: Consultation Trading

Date: 13 November 2020

Subject: **CONSULTATION ON DEACTIVATION OF DISCRETIONARY ORDER TYPE FOR ALL CONTRACTS AND THE ICEBERG ORDER TYPE FOR CASH-SETTLED FUTURES CONTRACTS**

Summary

1. The London Metal Exchange (the “**LME**”) intends to prohibit the use of the discretionary order type for all tradeable Contracts, and the iceberg order type for Cash-Settled Futures Contracts, and seeks the views of Members and other interested parties on the proposed approach, as detailed in this Notice (the “**Notice**”).

Defined terms

2. Terms not otherwise defined in this Notice shall have the meanings ascribed to them in the Rules and Regulations of the LME, as amended from time to time (“**LME Rules**”).

Background

3. With MiFID II having been in force for over two years, and as part of the LME’s proactive approach to compliance, the LME has recently undertaken a post-implementation assessment of its MiFID II arrangements against applicable requirements and market convention. As part of this process, it has been identified that certain discretionary orders for all tradeable Contracts, and iceberg orders in relation only to Cash-Settled Futures Contracts, should be prohibited.
4. By means of the prohibition described further in this Notice, the LME intends to prohibit the following order types:
 - (a) discretionary orders for all tradeable Contracts, as the structure of this order type poses challenges in relation to the pre-trade transparency requirements set out in MiFIR; and
 - (b) iceberg orders for Cash-Settled Futures, as the relatively small lot sizes of these Contracts do not lend themselves to iceberg orders because the undisclosed portion of the order may fall below the EUR 10,000 iceberg requirement set out in MiFIR. Owing to their larger lot sizes, base metal futures Contracts are unlikely to fall below the MiFIR EUR 10,000 iceberg requirement.
5. The LME therefore intends to prohibit these order types (in relation to the Contracts described in paragraph 4 above) in the manner described more fully below, and seeks views on the way in which the LME proposes to implement this prohibition (“**prohibition approach**”).

The consultation process, timing and steps following this consultation

6. This consultation is open to all interested parties, including (but not limited to) Members and other market participants that trade on the LME.
7. Formal responses to this consultation should be submitted in writing, preferably making reference to the numbered questions set out in paragraph 20 below.



8. This consultation will remain open for responses until 6:00pm (London time) on **4 December 2020**. The LME shall be under no obligation to consider responses submitted after this time.
9. Any questions regarding this consultation and any formal written responses should be submitted by email to consultation@lme.com.
10. The LME may need to share responses received with regulatory authorities, members of its group, and its legal or other professional advisors, or as required by law. Anonymised responses (verbatim or paraphrased) may be included in any decision Notice(s). Apart from this, all responses will be treated in confidence.
11. Following this consultation and any necessary regulatory engagement, the LME may advise Members and interested parties via one or more Notices of when any changes to available order types may take effect.

Proposed prohibition approach

12. The LME has considered two main approaches to prohibiting the use the order types referred to in paragraph 4, namely: a system deactivation within LMEselect; and a prohibition by Notice. In the interests of expediency and cost for market participants and the LME, the LME intends to adopt the approach of prohibiting use of these order types by Notice. Additionally, the LME notes that it intends to implement a new trading platform in 2022 that will be designed to address this issue systemically.

Prohibition on submitting relevant orders types to LMEselect using native functionality

13. With effect from the relevant date (a proposed timeline is set out at paragraph 19 below), Members (and any DEA Clients of such Members) shall be prohibited from submitting discretionary orders for all Contracts, and iceberg orders for Cash-Settled Futures Contracts only, to LMEselect using discretionary order and iceberg order functionality that is native to LMEselect. The term “native” in this context refers to the following functionality:
 - (a) **FIX-entered orders:** Orders containing FIX tags 389 and 841, as set out more fully in the LMEselect FIX Specification available on the LME website (as updated from time to time); and
 - (b) **GUI-entered orders:** discretionary order and iceberg order functionality in the GUI, described more fully in the LMEselect 9.4 User Guide that is also available on the LME website (and which may be updated from time to time).
14. The prohibition will be introduced by way of Notice; Members shall not be required to make any LMEselect systems updates to implement this change. However, Members should ensure that they implement appropriate systems and controls to facilitate their compliance with this prohibition.
15. Members are further reminded that they are responsible for and remain liable for all trading activity entered into by their Clients and should therefore take whatever steps are necessary to ensure that their DEA Clients are aware of this prohibition and act in a way to ensure the Member’s continued compliance with this prohibition.

Consequences of submitting a relevant order

16. The LME shall monitor activity on LMEselect for indications that an order has been placed using a prohibited order type. Taking into account its obligations to maintain an orderly market, the LME shall have the power to cancel, or require that a Member cancel, an order that is resting in the order book or, in the case of icebergs, in the LME’s order management facility, where the order has originated from the use of a prohibited order type. Members who are directed to cancel an order in this way must do so (or, where applicable, arrange for their DEA Client to do so), as soon as reasonably practicable on receiving LME’s instruction to cancel.
17. For the avoidance of doubt, the LME shall not cancel, or require Members to cancel, trades that result from an order that is submitted using a prohibited order type.
18. Members who contravene the prohibition shall be deemed to have failed to comply with the LME Rules. Members must ensure that they implement appropriate controls to facilitate compliance with this prohibition. Failure to comply with the prohibition or failure to implement appropriate controls may result in a Member being subject to an investigation and disciplinary action by the LME.



Summary timeline

19. For information only, the LME's intended timeline for this consultation and associated steps is as follows (subject to any feedback relating to the questions in paragraph 20 below).

6.00pm (London time) on **4 December 2020** – consultation closes

14 December 2020 – LME publishes decision Notice

Start of trading on **21 December 2020** – Target date for Notice prohibition to take effect

Consultation questions

20. The LME seeks views on the following questions:

- (a) Do you foresee any significant operational or other challenges in complying with a non-system based prohibition on submitting discretionary orders and iceberg orders (for Cash-Settled Futures Contracts) as described above?
- (b) Do you have any views on whether the proposed target date set out in paragraph 19 provides sufficient advance notice of implementation of this change?

Benefits and unintended consequences

21. The LME acknowledges that there may be costs incurred by Members, Clients and Indirect Clients and other market participants in complying, or otherwise in connection with, the changes set out in this Notice. However, the LME believes that the changes are necessary, in order to ensure the continued compliance of the LME and its market with the relevant MiFIR requirements. The LME has not identified any unintended consequences as set out in this Notice as a result of any of the changes. However, the LME is interested in the views of respondents to this consultation in this regard.

James Cressy
Chief Operating Officer – LME Group

cc: Board directors