

To: All members and other interested parties

Ref: 22/161

Classification: Consultation General

Date: 17 June 2022

Subject: **DECISION NOTICE ON OTC POSITION REPORTING & ACCOUNTABILITY LEVELS FOR REPORTABLE OTC POSITIONS**

Summary

1. This Notice (the “**Decision Notice**”) sets out the LME’s decisions in relation to the matters consulted on in LME Notice 22/145 and summarised below.

Background

2. The Decision Notice follows Notice 22/145 (the “**Consultation**”), which sought views on two proposals:
 - (a) the introduction of a requirement for Members to report all OTC positions in aluminium, aluminium alloy, cobalt, copper, lead, NASAAC, nickel, tin and zinc to the LME on a weekly basis with no minimum position size threshold, to be given effect through a new rule (the “**Weekly OTC position reporting Proposal**”); and
 - (b) the extension of Accountability Levels to OTC positions (the “**Accountability Levels Proposal**”) (together the “**Proposals**”).
3. The LME believes these Proposals will further enhance its visibility of OTC markets. This is in the interests of the market as a whole and will improve the ability of the LME to oversee activity holistically through increased visibility, ensuring future market stability, and continued compliance with its regulatory obligations.
4. Having sought the opinions of market participants, the LME is grateful to those who responded. The LME received 27 timely responses in relation to the Consultation and has taken careful account of them in reaching the decisions set out in this Decision Notice.
5. The body of this Decision Notice summarises the Consultation responses received by the LME and the decisions taken by the LME in light of Consultation feedback. It also confirms the final LME Rulebook changes and the changes to the Policy Relating to Position Management Arrangements (the “**Policy**”) that will give effect to the Consultation Proposals.
6. This Decision Notice is split into the following parts:
 - a) Section A – Weekly OTC position reporting Proposal;
 - b) Section B – Accountability Levels Proposal; and
 - c) Section C – Implementation arrangements and amendments to the LME Rulebook and Policy.

Defined terms

7. Defined terms in this Decision Notice shall have the meaning set out in the LME Rulebook, the Policy or the Decision Notice as applicable, unless stated otherwise.



Section A – Weekly OTC position reporting Proposal

Background

8. The Consultation sought views on the Weekly OTC position reporting Proposal, as described more fully in paragraphs 14-23 of the Consultation, to be given effect through a new rule, which was set out in proposed form in paragraph 24 of the Consultation.
9. In summary, the Consultation sought views on:
 - (a) the addition to the LME's current powers to request information about OTC dealings in metals, to cover any situation where it judges that reporting of such data could be important for the LME's operation of fair and orderly markets; and
 - (b) pursuant to the new power, the introduction of OTC position reporting on a weekly basis across all metals that are physically deliverable on the LME, so as to provide the LME with timely visibility of significant positions in the OTC market.

Views sought by the Consultation included any comments on the drafting of proposed Regulation 24, Part 2, and on operational implications for Members.

Responses received

10. In general, respondents were supportive of the LME's desire to ensure the fair and orderly operation of its market, but expressed reservations about the Weekly OTC position reporting Proposal, though several acknowledged the important linkages between OTC trading and the integrity of trading on-exchange.
11. A majority of the 27 responses to the Consultation raised concerns about the general timing of the Weekly OTC position reporting Proposal, suggesting that measures to address the visibility of OTC markets should await the outcome of the independent and regulatory reviews into the events in the Nickel market earlier this year.
12. A majority also raised concerns about the operational implications of the Proposal, indicating that the scale of reporting and timeline for implementation will be challenging to meet. They also expressed concerns about the interim nature of the proposal, and the resources that would be necessary to implement changes to the regime.
13. A smaller majority also raised a concern that terms of contracts with clients, and potentially regulatory obligations, may be breached by compliance with the reporting requirements. Many of these suggested that they may need to reach individual agreements with clients for disclosure of confidential information, or re-document client relationships to address the issue. Some suggested the LME should provide a legal analysis of relevant restrictions on disclosure. One respondent asked whether, in circumstances where it is the Member's client who is subject to the relevant restrictions, the Member will be required to provide the "reasoned justification" of its client in respect of the restriction, suggesting that this would not be feasible.
14. The majority of respondents also raised a concern about the use of email for reporting, on grounds of security (including cybersecurity), and suggested instead a secure file transfer protocol mechanism. One asked for further detail on governance processes, including how the data would be stored and protected.
15. A significant minority of respondents suggested that reporting would be ineffective given the global nature of the OTC market. A similar number suggested that position limits or other alternative measures, rather than reporting, should be relied on instead. Several suggested that the LME should align its approach with other markets, or that monitoring of OTC markets (including the extension of monitoring to beneficial owners of positions) was more appropriately undertaken by regulatory authorities. In this regard, one respondent cautioned about creating material differences between the requirements for, and benefits of, membership of the LME as compared to other trading venues. One preferred a solution in which the FCA shared data with the LME in order for the LME to have better visibility of OTC activity. One, on the other hand, commented that negative impacts from the OTC market are rare, and the ETD hedges used by dealers will already be visible to the LME. This respondent felt that any negative impacts of OTC trading need to be considered alongside the on-exchange issues. The respondent also believed that some Members may need to improve credit risk management, and that the exchange should consider enhancing its senior expertise in the physical market. However, one respondent was in favour of a more frequent daily reporting requirement of OTC positions of all traded metals.
16. There was also a variety of feedback comments concerning the detail of the proposed reporting format, suggesting:



- (a) the proposed requirement to report nil returns would not be proportionate if it required implementation of reporting requirements by Members whose business is not in scope. More generally, the scale and detail of reporting required should be relevant to assisting the LME identifying actual risks to the orderliness of the market;
 - (b) reporting on the basis of positions under index exposures was unclear, including any obligation to review the composition of relevant indices;
 - (c) it was unclear whether information should be reported on the basis of an entity's net position, or whether only gross long positions should be reported;
 - (d) the existing ITS 4 format of the LME Listed Futures and Options position report should be used for the proposed reporting;
 - (e) clarification of any minimum threshold applicable to reporting should be provided, with regard to the proposal that Members "submit details of all positions in any of the metals where the total metal to be reported represents at least 20% of the underlying";
 - (f) the description for the new field "Delta Position" should be "Equivalent metric tonne position of an option position". Also, it was unclear to which products the new fields "Averaging From" and "Averaging To" apply e.g. Average Price Forwards, Average Price Swaps or Asian Options;
 - (g) a Member ought to both report on a consolidated basis as well as per end-client;
 - (h) further clarification of the language requiring Members to disclose their clients' OTC positions should be provided, to confirm that Category 5 Members who are Clients of other Members are excluded from the obligation; and
 - (i) the LME should confirm whether the proposed reporting regime would result in any changes to the LME Financial OTC Booking Policy.
17. A number of comments concerning the drafting of the proposed new rule were also received, including:
- (a) the drafting proposed in the Consultation is broad and relies on future notices to provide technical details – more detail and increased legal certainty around the implementation would be helpful for the market;
 - (b) the scope of the definition of "OTC derivatives", and of what would be considered physically deliverable metal and a "similar instrument" should be clarified. In particular, it was suggested that the following would benefit from clarification:
 - (i) the distinction between OTC derivative contracts, spot contracts and contracts traded on exchanges other than the LME;
 - (ii) whether the proposals are for physically settled positions or also financially settled contracts; and
 - (iii) whether these measures would apply to inventory financing arrangements;
 - (c) a Member's obligation to comply with the reporting requirements should be subject to what is commercially reasonable;
 - (d) any variation of the reporting format should be subject to a minimum notice period;
 - (e) a Member should not be required to report information, to the extent that the provision of such information would breach any statutory, regulatory, common law or contractual confidentiality obligations; and
 - (f) a "client" for the reporting purposes would not have the meaning given in the LME Rulebook, but it would be helpful to clarify further how "client" is defined.
18. The LME would like to take this opportunity to note that while the section of Notice 22/145 headed "LME view on longer term OTC information and transparency" was not subject to consultation, the proposal that in future the LME may consider publishing aggregated summary data or aligning the publication of OTC trading and position data with that of LME data was seen as a concern by some respondents (though one Member submitted that data should be made freely available to Members moving forward). This was broadly on the basis that use of confidential information needs to be carefully controlled, with one stating that data gathered should remain in the LME's market surveillance department and not be shared with



other departments which could have a commercial interest in the information. One respondent also requested further detail of any future changes required in relation to LMEsmart (the Matching System), and another suggested it would be complex for Members to build a live trade feed into LMEsmart. The LME takes note of these comments and, as stated in the Consultation, will continue to consider the topic of OTC reporting, subject to consultation as appropriate.

19. Notwithstanding the above and for the avoidance of doubt, the LME reserves the right, where it considers it appropriate to do so, to share OTC trading and position data with LME Clear pursuant to Membership Regulation 21. Further, LME Clear may disclose such information to the relevant regulator in accordance with LME Clear Rule 2.6.2(a).

The LME's decisions

20. The LME has carefully considered all of the feedback received, in combination with its intentions regarding the Proposal as laid out in the Consultation. These were to enhance its visibility of OTC markets, in the interests of the market as a whole, with the objective to improve the ability of the LME to oversee activity holistically, ensuring future market stability and continued compliance with its regulatory obligations.
21. In relation to concerns about the general timing of the Weekly OTC position reporting Proposal, the LME continues to believe that the approach set out in the Consultation¹ remains appropriate. While any relevant findings from the Independent Review will also be considered and factored into the LME's plans in due course, the LME will not delay taking appropriate actions to wait for the outcomes of the Independent Review². A similar approach is appropriate in respect of the regulatory reviews announced by the Financial Conduct Authority and Bank of England on 4 April this year. The LME believes that the benefits to the market of receiving regular OTC data to monitor trading in instruments linked to the LME are such that it would be inappropriate to delay the Proposal. The Proposal will further assist the LME to reduce the risk of the occurrence of disorderly trading conditions on its market, in line with the LME's regulatory obligations, in the context of recent events in the LME Nickel market which have demonstrated the effects that OTC activity can have on the wider LME market.
22. In relation to feedback about the operational implications of the Weekly OTC position reporting Proposal, the LME appreciates these concerns, and the importance of a proportionate approach to implementation. However, the LME's view continues to be that the operational implications for Members in connection with the Proposals are reasonable and justified in the interests of the market as a whole, including its sound and fair functioning, and continuing compliance with the LME's regulatory obligations.
23. The LME believes that a one month implementation period strikes the right balance, having regard to the importance of the Proposals and the necessary time to ensure their implementation. As suggested in the Consultation, and in the proposed drafting of the new rule, such advance notice as is practicable in the circumstances will be provided prior to any variation of reporting requirements pursuant to the new rule.
24. In relation to concerns around client confidentiality, the LME considers that where statutory obligations in a jurisdiction prevent the disclosure of some or all of the data required to be disclosed under the Weekly OTC position reporting Proposal, a Member may, having made appropriate attempts to procure approval to disclose the required data where possible, instead provide a reasoned justification concerning the extent to which it is unable to make the relevant disclosures. Where the Member's client is subject to the relevant restrictions, the Member should seek to obtain sufficient information to enable the LME to assess the validity of the rationale. Where such instances occur and a Member is unable to disclose details of the client to the LME, the Member must still report the position to the LME, but using an anonymised client identifier (which must remain consistent through time).
25. Where, as is more common, contractual confidentiality provisions apply, the LME expects Members to obtain or renew the consent of clients, or alternatively to invoke any client terms providing that specific terms are subject to market rules or other overriding obligations.³ The LME notes that Members have been under an obligation to provide information about OTC business in trading, storage or financing of metals on request from the LME since 2020 pursuant to Regulation 12.1.4 of Part 2 of the LME Rulebook, and have been providing daily reporting on nickel positions for the last three months pursuant to Notice 22/064 dated 14 March 2022. On the basis of the LME's experience of this, the LME believes that any impediments to reporting will be very much at the margins. The LME reminds Members and market

¹ At paragraph 7 and 34.

² Anticipated by Notice 22/099.

³ Such as, for example, existed in *Brandeis (Brokers) Ltd v Herbert Black* [2001] All ER (D) 342, at [10]; and *CFH Clearing Ltd v Merrill Lynch International* [2020] EWCA Civ 1064, at [11].



participants that any information that it obtains will be subject to the confidentiality requirements set out in Regulation 21 of Part 2 of the LME Rulebook. Members should ensure they maintain appropriate systems and controls to ensure the confidentiality of data transmitted from any indirect clients.

26. With respect to the proposed reporting format and security concerns, the LME notes this concern and will therefore require, as of 18 July 2022, that Members use some form of encryption when submitting their required data to the LME. Members are permitted to select the encryption method, however the LME must be able to access the data, in the Excel format required by the reporting template, once decrypted. Members must inform the LME of their chosen encryption method, and provide a sample file, **prior to 24 June 2022** to ensure the LME has suitable time to ensure the encrypted data is accessible, and in the event it is not accessible liaise with the Member firm to ensure an alternative encryption method is identified. This would help to address the operational risk and data security concerns raised by respondents, while still ensuring the LME's market integrity objectives are promoted. As noted in the Consultation, the LME may also implement further interim measures where the LME considers that they could help operationalise reporting, such as setting up a mechanism to submit the data into a secure FTP server. The LME acknowledges the sensitive nature of the reporting data, and data received from Members will be stored in accordance with the LME's established data storage protocols, in accordance with the confidentiality provisions set out in Regulation 21 of Part 2 of the LME Rulebook.
27. In relation to the effectiveness of reporting to address market integrity, the LME has carefully considered alternative measures, including the possibility of further liaison with the FCA, but continues to believe that the Weekly OTC position reporting Proposal, combined with the Accountability Levels Proposal, at this time best addresses the risks posed to the LME's market. As noted above in paragraphs 20 and 21, the LME has responsibilities under a system of statutory regulation. Therefore, the LME will not delay taking appropriate actions in upholding its duties as part of that system, as the LME considers that it is important that it has the relevant powers, regardless of the approach taken by third parties.
28. In respect of comments on the detail of the reporting format proposed:
 - (a) The LME agrees that in general the scale and the level of detail of reporting required should be relevant to assisting the LME to identify actual risks with regard to the orderliness of the market. The LME proposed that in the event a Member holds no OTC positions, the Member should confirm this with the submission of a nil file return, to ensure that the information available to the LME is as complete as possible. The LME acknowledges that where a member conducts no OTC trading, a weekly email confirmation of this would be sufficient for these purposes;
 - (b) The LME clarifies the Proposal in respect of reporting positions under index exposures as follows:
 - (i) Where relevant metals represent at least 20% of the underlying value of the OTC instrument (such as, but not limited to, a commodity index), Members should report the equivalent metric tonnes of each metal delta in the "Position" field set out in the reporting template.
 - (ii) Where relevant, a Member should ensure that it puts in place appropriate systems to review the composition of relevant indices, so as to prevent any material inaccuracy in its reporting;
 - (c) The LME further confirms that when reporting in the template, for each position-holder there should be one single net position for metal, OTC instrument type, prompt date, and strike/option type (if relevant), as indicated in paragraph 21 of the Consultation;
 - (d) With regard to the comment that the ITS 4 format of the LME Listed Futures and Options position report should be favoured over the format set out in the Annex to the Consultation, the implementing technical standard referred to is for MiFID position reporting, and relates to instruments traded on trading venues and economically equivalent OTC contracts. The LME understands that the respondent would prefer to use the daily disaggregated report from Table 2 of Annex 2 of the ITS. However, not all of those fields would be necessary for present purposes. Paragraph 16 of the Consultation states that only the data that the LME considers would be necessary for the purposes of enhancing its visibility of OTC positions is set out in the Annex to the Consultation;
 - (e) The LME confirms that, except in the case specified in paragraph (b) above, there is no minimum threshold applicable to Weekly OTC position reporting;
 - (f) In relation to the comment that the new field "Delta Position" description should read "Equivalent metric tonne position of an option position", the LME confirms that the description means the delta-equivalent quantity of the position (in metric tonnes) reported in the "Position Quantity" field. As to the comment that it is unclear which products the new fields "Averaging From" and "Averaging To" apply to e.g. Average Price Forwards, Average Price Swaps or Asian Options, the LME confirms that



should a Member populate the Contract Type field with the value “Averaging” then there would be an expectation that the Averaging From and Averaging To fields would then be populated appropriately;

- (g) With regard to the comment that a Member ought to both report on a consolidated basis as well as per end-client the LME refers Members to paragraph 21 of the Consultation, which stated that OTC positions held by clients should be reported separately to the OTC positions held by Member, with each position to be reported from the perspective of the position holder;
- (h) The LME confirms that Category 5 Members who do not hold positions directly (but only indirectly through another Member) will not be directly subject to the reporting obligation in the Weekly OTC position reporting Proposal (and accordingly there is no obligation to submit a nil file); and
- (i) The LME confirms that it is not proposing changes to the LME Financial OTC Booking Policy.

29. In relation to the comments on the drafting of the proposed new rule:

- (a) The LME recognises that the drafting of the new rule is broad and relies on this Decision Notice and future Notices to provide technical details. It was noted in the Consultation that the proposed rule set out in paragraph 24 was intended to provide the LME with a degree of flexibility. Nonetheless, the LME stated in the Consultation that the expanded powers would “cover any situation where it judges that such data could be important for the monitoring and ongoing operation of fair and orderly markets”. The LME has incorporated this limiting purpose into the wording of the final rule;
- (b) The LME also appreciates that the scope of the formulation “over-the-counter contracts”, is flexible to a degree. This is intentional, as the LME explained in Decision Notice 20/217⁴, in amending Regulation 12.1.4 of Part 2 of the LME Rulebook. While information requested under the new rule would be expected to be limited to Relevant OTC Contracts as defined in paragraph 3.1 of the LME Financial OTC Booking Policy and this may be taken as a guide for the purposes of the Weekly OTC position reporting Proposal, it may in certain circumstances need to be broader than this, so the drafting is deliberately not limited to those defined contracts;
- (c) The LME does not believe it is appropriate to limit a Member’s obligation to comply with the reporting obligation to what is “commercially reasonable”. The term is used in different contexts, and the meaning that would be given to the term in the context of obligations for the purpose of maintaining fair and orderly markets may be uncertain;
- (d) In relation to the comment that any variation of the reporting format should be subject to a minimum notice period, as noted above such advance notice as is practicable in the circumstances will be provided prior to any variation of reporting requirements, pursuant to the new rule;
- (e) The LME’s position on client confidentiality obligations is set out above. Where legislative obligations in a jurisdiction prevent the disclosure of some or all of the data required to be disclosed under the Weekly OTC position reporting Proposal, a Member may, having made appropriate efforts to procure approval, instead provide a reasoned justification (including in the case of a client, seeking sufficient information to enable the LME to assess the validity of the client’s rationale), and subsequently use an anonymised identifier (which should remain consistent through time for any client identified in this manner); and
- (f) The LME confirms that a “client” for these reporting purposes will not have the meaning given in the LME Rulebook. The LME believes it is unnecessary and likely to be unhelpful to provide a formal definition for this purpose.

30. On this basis, the LME has decided to implement the Proposal broadly in the form set out in the Consultation, allowing for a one month period of implementation, so that the Proposals commence on Monday 18 July 2022. The LME hereby adopts the rule in the manner set out in Appendix 1.

Section B – Accountability Levels Proposal

Background

⁴ See Appendix 4 - (a) Provision of Information.



31. The Consultation sought views on the Accountability Levels Proposal, as described more fully in paragraphs 26-28 of the Consultation, including making certain changes indicated in paragraph 27 of the Consultation to the Policy.
32. In summary, the Consultation sought views on the extension of the Accountability Levels set out within the Policy to all OTC positions reported by Members (in addition to the existing on-Exchange positions). Under this Proposal, where a Member or a client had a position that was above the applicable Accountability Level, or the LME otherwise deemed it appropriate at its absolute discretion, the LME could request the rationale for the position-holding from the Member.

Responses received

33. The LME received fewer comments on the Accountability Levels Proposal. However, one respondent requested clarity on how the LME would enforce the rules in relation to OTC positions. In particular, the respondent thought it unclear whether the full set of LME powers would apply, including being able to instruct a client of a member to reduce a position to below the accountability level. This issue was also expressed by another respondent, who asked what action the LME would take if the LME deemed the rationale provided by a Member for holding an OTC position to be insufficient or if the OTC client declined to provide rationale. Another respondent asked how the LME would instruct members to limit exposure to certain clients without breaching confidentiality and potentially alerting them to inside information (a large client position aggregated across several dealers).
34. A respondent noted further that the Weekly OTC position reporting proposal is to require Members to report OTC positions on the basis of metric tonnes rather than lots. However, the Accountability Levels are set in lots, and it was unclear what steps (if any) Members would be required to take to convert between metric tonnes and lots. The respondent also noted that clients may have OTC positions with several different LME Members, and it was not clear whether any Accountability Levels should be applied on the basis of each position with an individual Member, or whether the LME will look at a client's combined positions.

The LME's decisions

35. The LME believes that the concerns set out in paragraph 33 above are clarified by the Policy (Enforcement of Position Management Arrangements).⁵
36. Members and their Client(s) may (unless directed otherwise) hold positions that are in excess of the Accountability Level. Regulation 17 of Part 3 (Emergencies) of the LME Rulebook sets out the powers of the Special Committee in the event that it has cause to suspect the existence of or to anticipate the development or likely development of an undesirable situation or undesirable or improper trading practice which in its opinion has affected or is likely to affect the market. The Special Committee may, in its absolute discretion, take such steps as it deems appropriate to contain or rectify the situation. This may include, without limitation, a direction to reduce a position to below the relevant Accountability Level. In addition, the LME has powers to direct any Member, or all Members, to take such action as the Exchange may direct in order to mitigate the potential impact of a Client of Concern on the Exchange and/or the market for metals listed on the Exchange, pursuant to Regulation 12.10.3 of Part 2 of the LME Rulebook. Any Member contravening or failing to comply with any direction or instruction issued by the LME will be considered to be in breach of the LME Rulebook.
37. As noted in paragraph 27 of the Consultation, certain textual changes also need to be made to paragraphs 54 to 61 of the Policy to: (i) extend the application of Accountability Levels to reportable OTC positions; (ii) clarify the application of Accountability Levels to client positions rather than to Clients as defined in the LME Rulebook; and (iii) clarify that the LME may, at its discretion, elect to consider OTC positions separately to on-Exchange positions, or net them together, for the purposes of determining if the position is in breach of the Accountability Level threshold.
38. The LME will adopt amendments to the existing Policy as set out in Appendix 2.
39. On this basis, the LME has decided to implement the Proposal broadly in the form set out in the Consultation, allowing for a one month period of implementation, so that the Proposals commence on Monday 18 July 2022, concurrently with the Weekly OTC position reporting Proposal.

⁵ The Policy may be found at: <https://www.lme.com/en/company/market-regulation/rules/key-compliance-notice>.



Section C – Implementation arrangements and amendments to the LME Rulebook and Policy

40. As noted above, the LME has decided to implement the Proposals broadly in the form set out in the Consultation, allowing for a one month period of implementation, so that the Proposals commence on Monday 18 July 2022. As noted above, the LME believes that receiving regular OTC data to monitor trading in instruments linked to the LME without delay is in the interests of the market as a whole and will improve the ability of the LME to oversee activity holistically through increased visibility, ensuring future market stability, and continued compliance with its regulatory obligations. The LME’s analytical capabilities regarding this data will initially be necessarily limited by the lack of historical data, the manual nature of submission, and the short implementation timelines. However, the LME will continue to increase its capabilities that will improve its analysis of OTC data over time.
41. Consistently with that decision, the LME will adopt the proposed rule, in the manner set out in Appendix 1, and will adopt amendments to the existing Policy in the manner set out in Appendix 2. These changes commence on Monday 18 July 2022.
42. The LME therefore withdraws the existing requirement to daily report OTC nickel positions, introduced in Notice 22/064, with effect from Monday 18 July 2022.

Tom Hine

General Counsel, LME Group

cc: Board directors
User Committee



Appendix 1
LME Rulebook amendment
Part 2: Membership, Enforcement and Discipline

In this Appendix, underlining indicates new text and striking through indicates deleted text.

“PERIODIC OTC POSITION REPORTING

24.1 Each Member shall provide to the Exchange, on a weekly basis (or such other frequency may be specified by the Exchange pursuant to Regulation 24.2):

- (a) such information in respect of positions under over-the-counter contracts;
- (b) in respect of such metal(s);
- (c) at such times; and
- (d) in such format,

as in each case shall be specified by Notice-, and which in the opinion of the Exchange could be important for its monitoring and ongoing operation of a fair and orderly market.

For the avoidance of doubt, such information may include information regarding the over-the-counter positions of the Member and/or its affiliates and/or its clients.

24.2 The Exchange may, in its discretion, by Notice and with such advance notice as is practicable in the circumstances:

- (a) dis-apply the reporting requirement under Regulation 24.1 from any metal or, include any additional metal(s) to such reporting requirement; and/or
- (b) modify the reporting thresholds for any metal; and/or
- (c) modify the reporting format; and/or
- (d) modify the reporting frequencies or timescales for submission of the information.”



Appendix 2 Amendment the Policy Relating to Position Management Arrangements

In this Appendix, underlining indicates new text and striking through indicates deleted text.

“Accountability Levels

54. As noted above, the LME continuously undertakes surveillance on all positions held on the market and where relevant the Lending Rules set out specific actions that would be taken in particular circumstances. However, the LME considers it appropriate to have arrangements in place for the provision of additional information, when requested by the LME, for positions that are above certain levels (which shall be referred to as the “Accountability Levels”), even where such positions do not trigger the application of the Lending Rules. The request to provide additional information will be made to the Member who is holding a position, either directly or on behalf of their Client(s), which is in excess of the relevant Accountability Level. In calculating whether a position is in excess of the relevant Accountability Level, the LME may take into account positions in over-the-counter contracts subject to reporting under Regulation 24 of Part 2 of the Rules (“OTC positions”). In this respect, the LME may, at its discretion, elect to consider OTC positions separately to on-Exchange positions, or net them together, for the purposes of determining if the position is in breach of the Accountability Level threshold.

55. For the avoidance of doubt, Members and their Client(s) may (unless directed otherwise) hold positions that are in excess of the Accountability Level.

56. The LME will publish Accountability Levels for positions held on single Prompt Dates and also positions held across all Prompt Dates (referred to as the “Single Prompt Accountability Levels” and the “All Prompt Accountability Levels” respectively).

57. If a position exceeds as described either the Single Prompt Accountability Level and/or the All Prompt Accountability Level then the LME may require further information as to the nature and purpose of the position of that account (or, if appropriate, linked accounts as determined by the LME or OTC positions taken into account), and may direct that Members cannot accept further orders that increase the position, or direct that the position be reduced to a level below the Accountability Level. The Member shall comply with such directions, or procure that its Client comply with such directions.

58. The current Accountability Levels are set out at Schedule 2. The LME reserves the right to amend these levels, and the LME will advise of any updates in writing. In addition, Accountability Levels for other LME contracts may be introduced from time to time, as advised by the LME in writing. The Single Prompt Accountability Levels shall be calculated for each Member or Client (as relevant) on a net basis in respect of each relevant Prompt Date. The All Prompt Accountability Level shall be calculated for each Member or Client (as relevant) on a net basis in respect of all relevant Prompt Dates.

59. The Accountability Levels shall apply to any Member and/or Client trading the contracts set out in Schedule 2, and will apply to positions held at the end of day. Members shall be responsible for compliance with the Accountability Levels and for ensuring compliance by their Client(s) with the Accountability Levels.

60. Upon request, Members are required to provide all relevant information relating to the position to the LME. Where appropriate, Members may encourage their Clients to provide all relevant information directly to the LME, and in such cases the Member will have been deemed to have responded to the LME’s original request for additional information. The LME is aware that the information provided may



include commercially sensitive information and therefore will be held in confidence in accordance with the provisions of Part 2 of the LME Rulebook.

61. As with the publication of position information and the Lending Rules, in calculating the total positions of two or more entities acting in concert for the purposes of the Accountability Levels, the LME shall aggregate the positions of a Client across all Members. Likewise the LME shall aggregate the positions of a Member or Client and such entity's related group companies unless the entity can demonstrate that the positions were independent. The LME will also aggregate the positions of unconnected parties if the LME believes that there is a common purpose between such parties. In such cases the LME will inform the parties either directly or through the Members with whom they trade."