



Regulatory Position Limit Exemption Application: Pass-Through Hedging Exemption

Please respond to:
Position Surveillance, LME
position.surveillance@lme.com



1 Introduction

This application form sets out the minimum information required by the London Metal Exchange (**LME**) for the **Pass-Through Hedging Exemption** in accordance with the **LME's Policy Relating to Regulatory Position Limits and Exemptions** and the rules of the Financial Conduct Authority ("**FCA**") as set out in Chapter 10 of the Market Conduct sourcebook ("**MAR 10**").

2 Defined Terms

Capitalised terms used in this policy shall have the meaning given to them in the LME's Rules and Regulations including the LME's Policy Relating to Regulatory Position Limits and Exemptions.

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4 Application Guidance

This application must be completed in accordance with the LME Rulebook and Policy Relating to Regulatory Position Limits and Exemptions – which describe relevant requirements surrounding information provision, confidentiality, conditions, Exemption Ceilings and communication.

For the avoidance of doubt, only a financial entity can apply for a Pass-Through Hedging Exemption. The Exchange shall not consider Exemption applications where the financial entity wishes to remain anonymous.

Applicants should seek to provide as much detail as necessary in order to provide a 'full and comprehensive' response. The boxes will expand as needed. Any answers that are considered too brief or lacking sufficient detail will be returned to the applicant, which will extend the process and delay the granting of the exemption ceiling.

This application form is for applicants seeking to benefit from the Pass-Through Hedging Exemption and should be used by an applicant to:

- (i) apply for (or renew) an Exemption;
- (ii) amend an existing Exemption; or
- (iii) cancel an Exemption.

Applicants seeking to re-apply for an Exemption ahead of its expiry will be responsible for completing an application form with updated information and should provide this in good time to the LME ahead of the expiry date of the existing Exemption.



Applicants seeking to amend (ii above) or cancel (iii above) an Exemption should update the original application form with the new information by completing the Appendix 1 below and re-sign and date the application form.

Once complete this application form and supporting documents should be provided to the Position Surveillance team at position.surveillance@lme.com.

Members, Persons Subject to the Rules or Clients with queries regarding this application should contact Position Surveillance at position.surveillance@lme.com.

5 Section 1 – Application details

The applicant shall provide the information requested below:

	Information requirement	Applicant response
5.1.1	Applicant Name (Legal entity name or natural person name)	
5.1.2	Registered Office / Operating Address (if different from Registered Office)	
5.1.3	Website	
5.1.4	Primary Contact: Name and contact details (phone and email address) of individual making this application and with whom LME should liaise in relation to: (i) this application; and (ii) the LME's Position Limits	
5.1.5	Alternative Contacts: Please provide alternative contact(s) to the above including relevant distribution lists.	
5.1.6	Legal Entity Identifier (LEI) or National Client Identifier (if no LEI)	
5.1.7	Clearing members (including member mnemonic) the applicant clears through	



6 Section 2 – Exemption details on the Pass-Through Hedging Exemption

6.1 Application summary

	Information requirement	Category	Applicant response
6.1.1	Reason for application	Apply for (or renew) an Exemption	
6.1.2		Amend Exemption	
6.1.3		Cancel Exemption	

6.2 Contract(s) for which an Exemption is sought

	Metal	Spot Month Contract Exemption (Please mark with an X as applicable)	Other Months' Contract Exemption (Please mark with an X as applicable)
6.2.1	Aluminium (AH)	[Ref: AHSPOT] <input type="checkbox"/>	[Ref: AHOTHER] <input type="checkbox"/>
6.2.2	Copper (CA)	[Ref: CASPOT] <input type="checkbox"/>	[Ref: CAOTHER] <input type="checkbox"/>
6.2.3	Lead (PB)	[Ref: PBSPOT] <input type="checkbox"/>	[Ref: PBOTHER] <input type="checkbox"/>
6.2.4	Nickel (NI)	[Ref: NISPOT] <input type="checkbox"/>	[Ref: NIOOTHER] <input type="checkbox"/>
6.2.5	Tin (SN)	[Ref: SNSPOT] <input type="checkbox"/>	[Ref: SNOTHER] <input type="checkbox"/>
6.2.6	Zinc (ZS)	[Ref: ZSSPOT] <input type="checkbox"/>	[Ref: ZSOTHER] <input type="checkbox"/>
6.2.7	Duration of the Exemption(s) <i>(maximum period 12 months)</i>	Start date:	End date:



6.3 Pass-Through Hedging Exemption eligibility requirements

	Information requirement	Applicant response
6.3.1	Explain how the applicant is a financial entity as defined under MAR10 ¹ .	
6.3.2	Describe how the position held is one which arises by the financial entity entering into a Contract for the purpose of: (a) enabling a non-financial firm to benefit from the Hedging Exemption; or (b) off-setting the risk arising from an OTC contract with a non-financial entity facilitating hedging activity.	
6.3.3	Describe how typical positions held by the financial entity would be unwound, if required, in an orderly way.	

6.4 Clearing Member arrangements

	Information requirement	Applicant response
6.4.1	For each Contract marked in Section 6.2, provide the Clearing Member arrangements that the financial entity has in place, and expects to have in place across the next 12 months. <i>(This response should detail the Clearing Members, the anticipated proportion of position held by each and any other relevant information, including but not limited to, credit and margin arrangements)</i>	

6.5 Pass-Through Hedging Exemption critical information

The Pass-Through Hedging Exemption is available where a financial entity provides risk mitigation services to a non-financial entity seeking to hedge its commercial risk. The applicant must submit the following information **at the time** of the application and where possible in relation to the **following 12 months**. Where the applicant is unable to accurately anticipate the underlying non-financial entity's hedging activity, the applicant is expected to use best efforts to provide information with respect to forward looking activity on the basis of activity over the past 12 months. In that case, the financial entity must expressly acknowledge in the Exemption application where it has relied on such assumption. In the event the application relates to multiple non-financial entities, the applicant should outline each one relevant to its application.

¹ [FCA Handbook - financial entity](#); [FCA Handbook - non-financial entity](#)



	Information requirement	Applicant response
6.5.1	<p>For each Contract marked in Section 6.2, outline the name of the non-financial entity and describe the nature and size of the exposures and risks as a result of their commercial activities or trading for which the financial entity facilitates hedging.</p> <p><i>(The applicant should provide a description of the nature of the relationship between the financial entity and the relevant non-financial entity and describe the non-financial entity's underlying exposures and risks)</i></p>	
6.5.2	<p>For each Contract marked in Section 6.2, describe the financial entity's risk mitigation services in the metal underlying the Contract for which an Exemption is applied.</p> <p><i>(The applicant should provide a description of how hedging activity is facilitated, what proportion of the non-financial entity's positions with the applicant is hedged via LME Contracts vs over-the-counter contracts)</i></p>	
6.5.3	<p>For each Contract marked in Section 6.2, describe the financial entity's trading activity and positions in Contracts for which an Exemption is applied, including in over-the-counter contracts that relate to providing risk mitigation services.</p> <p><i>(The applicant should provide detail of how their positions and trading activity is managed with respect to facilitating the hedging activity)</i></p>	

6.6 Additional evidence requirement

Additional evidence is required concerning the non-financial entity depending on the nature risk mitigation services described above.

	Information requirement	Applicant response	Evidence Provided
6.6.1	<p>Where the financial entity's position is one which arises by entering into a Contract for the purpose of off-setting the risk arising from an LME Contract with a non-financial entity facilitating hedging activity the financial entity must confirm that the non-financial entity has a Hedging Exemption.</p>		



6.6.2	<p>Where the financial entity’s position is one which arises by entering into a Contract for the purpose of off-setting the risk arising from an OTC contract with a non-financial entity facilitating hedging activity the financial entity must obtain and provide to the LME written representation from the non-financial entity that the position entered into facilitates hedging activity.</p> <p><i>(An agreement should be provided for each relevant non-financial entity concerned within this application)</i></p>		
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6.7 Requested Exemption Ceiling

The applicant must provide information concerning the Exemption Ceiling which they request. The LME will assess the requested Exemption Ceiling considering the factors described within the “Exemption Ceilings” Section of the Policy Relating to Regulatory Position Limits and Exemptions.

	Information requirement	Applicant response	
6.7.1	<p>For each Contract marked in Section 6.2, provide the Exemption Ceiling sought by the financial entity.</p> <p><i>(Exemption Ceiling requests should be in lots and should exceed the underlying Regulatory Position Limit)</i></p>		
6.7.2	<p>For each requested Exemption Ceiling, justify the extent to which you consider you will exceed the relevant Position Limit and utilise the level of Exemption Ceiling proposed.</p> <p><i>(Justifications should provide the LME with sufficient information to be satisfied that the proposed Exemption Ceiling is appropriate for the entity, with reference to the specific detail provided in Section 6.5)</i></p>		
6.7.3	<p>For each requested Exemption Ceiling, describe the steps the financial entity would take to unwind the proposed position(s), if required, in an orderly way.</p> <p><i>(With specific reference to Section 6.7.1, responses should include considerations, measures and controls to ensure such orderliness)</i></p>		

6.8 Internal policies

A qualifying position which benefits from a Pass-Through Hedging Exemption must demonstrate certain evidence concerning its internal policies and portfolio. For Sections 6.8.1 – 6.8.2 below, responses should summarise how internal policies meet these requirements and provide appropriate evidence.

	Information requirement	Applicant response	Evidence Provided
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6.8.1	Describe how the financial entity's internal policies outline the measures adopted to ensure that the positions facilitating covering risks directly related to the commercial activities of the non-financial entity and any position serving a different purpose are disaggregated and can be clearly identified.		
6.8.2	Describe the financial entity's position management arrangements, including management and oversight of positions and controls to prevent the position from exceeding a Regulatory Position Limit or Exemption Ceiling.		

7 Section 3 – Document checklist

Please list below any additional documents you wish to provide in support of this Exemption application e.g. trading data, financial statements, any other relevant information. Please email these documents along with this application form to position.surveillance@lme.com.

	Document attached (name)	Description
7.1.1		
7.1.2		
7.1.3		
7.1.4		
7.1.5		

8 Section 4 – Disclosure of information and declaration

8.1 Disclosure of Information

	Information requirement	Applicant response
8.1.1	Provide details of any other information that may be material to this application and that the financial entity considers the LME would reasonably expect to be disclosed for its consideration as part of this application for an Exemption.	
8.1.2	Confirm that you agree to the requirements, responsibilities and conditions outlined within the Rules including the LME Rulebook and	<input type="checkbox"/>



	the Policy Relating to Regulatory Position Limits and Exemptions.	
8.1.3	<p>Confirm that should the Exemption be granted, the financial entity will notify the LME promptly of:</p> <ul style="list-style-type: none"> (1) any significant change relevant to the information provided in the Exemption application (including but not limited to those set out in Section 6.5); and (2) any breach of a condition related to the Exemption, as set out within the LME's Rules including the Policy Relating to Regulatory Position Limits and Exemptions. 	<input type="checkbox"/>
8.1.4	<p>Confirm that you are aware that, without prejudice to the powers of the LME and of the Special Committee set out in the Rules, the LME may reject your application (including the requested level of Position Ceiling), unilaterally withdraw your Exemption, unilaterally amend your Exemption (including any condition attached to such Exemption) or unilaterally amend an Exemption Ceiling (level or condition if any attached to such Ceiling) and that the LME may take any other step related to or connected to an Exemption or an Exemption Ceiling in accordance with either the Rules, the FCA MAR 10 Rules or as directed by the relevant Regulator.</p>	<input type="checkbox"/>

8.2 Declaration

The applicant hereby confirms that the information it has provided in this Exemption application is accurate and complete.

	Detail	Applicant response
8.2.1	For and on behalf of (<i>legal entity name</i>)	
8.2.2	Name:	
8.2.3	Title:	
8.2.4	Date:	
8.2.5	Email address:	



8.2.6	Signed <i>(Please note that this should be a suitable person of appropriate seniority at the financial entity to attest to its factual accuracy and completeness e.g. Head of Compliance)</i>	
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Please sign and date the application form and return it to position.surveillance@lme.com.



9 Appendix 1 – Amendment or Cancellation of Existing Exemption

9.1 Amendment or Cancellation

	Information requirement	Applicant response
9.1.1	Describe the amendment or cancellation requested.	
9.1.2	Describe the rationale for the amendment or cancellation. <i>(This response should include how the information provided in the Exemption application has changed)</i>	
9.1.3	Requested effective date for the amendment or cancellation.	

9.2 Declaration

The applicant hereby confirms that the information it has provided is accurate and complete.

	Detail	Applicant response
9.2.1	For and on behalf of <i>(legal entity name)</i> :	
9.2.2	Date:	
9.2.3	Name:	
9.2.4	Title:	
9.2.5	Email address:	
9.2.6	Signed: <i>(Please note that this should be a suitable person of appropriate seniority at the financial entity to attest to its factual accuracy and completeness e.g. Head of Compliance)</i>	

Please sign and date the application form and return it to position.surveillance@lme.com.
