

To: All members, warehouse companies and their London agents and other interested parties

Ref: 24/217

Classification: Warehousing Consultation

Date: 29 July 2024

Subject: **DECISION NOTICE – PROPOSED AMENDMENT TO THE POLICY ON THE APPROVAL OF LOCATIONS AS DELIVERY POINTS**

Executive summary

1. Following the consultation set out in Notice 24/129 dated 19 March 2024 (the “Consultation Notice”), this Notice announces that the LME shall be amending the LME Policy on the Approval of Locations as Delivery Points (the “Policy”), as proposed in the Consultation Notice.

Defined terms

2. Capitalised terms not otherwise defined herein shall have the same meanings as ascribed to them in the terms and conditions applicable to all LME-listed warehouse companies (the “Warehouse Agreement”), the Rules and Regulations of the LME (the “LME Rulebook”), and the Policy.

Background

3. The Consultation Notice sought feedback on a proposal to amend clause 1(d) (the “Clause”) of the Policy. The Clause states that in the event of a bankruptcy or insolvency, there must be no restrictions placed on a metal owner who wishes to take possession of their metal and remove it from a Warehouse (provided that rent and handling charges have been paid). The Clause further explains that such a right must be incorporated in the law of the jurisdiction in which the Location is situated.
4. The proposed amendment seeks to clarify that certain jurisdictions, such as Saudi Arabia, may require a metal owner to enter into a court process to obtain a court order in order to take possession of metal from a Warehouse, and that the LME does not consider such a court process to represent a restriction for the purposes of the Clause, provided that such a process is generally understood to be efficient (the “Proposal”).

Consultation feedback

5. The LME received four responses to the proposed amendment to clause 1(d) of section A of the Policy, as set out in the Consultation Notice, of which one was marked as being a set of questions, rather than a formal response. The LME has addressed the questions that were contained in the four responses in Appendix 1.
6. Although the proposed amendment was in respect of a general amendment to the Policy, the majority of feedback received was specific to the proposed use of that amendment to list Jeddah as a Delivery Point. The LME would like to confirm that Jeddah had already been discussed with all LME metals, User, Physical Market and Warehousing committees as a Location to be approved as a Delivery Point (without any adverse feedback), and believes that this may have accounted for the relatively small number of formal responses to the Consultation Notice.
7. The LME has collated and carefully considered all the feedback that it has received in relation to the Consultation Notice and the proposed amendment to clause 1(d) of section A of the Policy. The LME would like to thank all market participants for their feedback. For further information, please refer to Appendix 1 of this Notice which details the feedback received and sets out the LME’s response to the



feedback. For the avoidance of doubt, the fact that any particular issue raised in any particular feedback response is not expressly included in Appendix 1 does not indicate that the LME has not considered it.

8. Of the four responses, two were broadly supportive of the proposed amendment to the Policy, one was broadly unsupportive, and one (as set out above) was a set of questions, rather than a formal response (and did not adopt any position on the issues). Some comments and questions were received on practical issues regarding: (i) the bankruptcy/insolvency regime that exists in Saudi Arabia; (ii) the court process that exists in Saudi Arabia in relation to bankruptcy/insolvency matters; and (iii) the status of Warrants under the law of Saudi Arabia. The LME's responses to these questions, along with its responses to other questions, are set out in Appendix 1. For the avoidance of doubt, the LME's responses to the feedback do not constitute legal advice or guidance and should not be relied upon in this way by any person. Market participants should seek independent legal advice and/or guidance regarding the matters that are set out in this Notice and the Consultation Notice.
9. Again, the LME would reiterate that the Policy is a general document (relating more broadly than to just Jeddah). As such, the LME sees no reason not to progress with the changes to the Policy, noting that if the Policy is then to be applied to Jeddah, the specific considerations in respect of Jeddah would need to be considered as part of its listing as a Delivery Point.
10. Separately, the LME has considered the applicability of Jeddah – and, as set out in Notice 24/218 dated 29 July 2024, has decided to proceed with the listing of Jeddah as a Delivery Point. Overall, the LME recognises that certain market participants may have concerns around the uncertainty of any court proceeding required to release metal in the event of a warehouse company bankruptcy or insolvency, especially given the LME's understanding that this process has not previously been undertaken in Saudi Arabia (notwithstanding the legal advice which the LME has received, and which does not give rise to any material concerns on the part of the LME). The LME has considered carefully whether this concern outweighs the benefits of listing Jeddah as a Delivery Point, and has concluded that it does not.
11. The LME also notes the specific feedback on Jeddah as provided in the Consultation Notice and has provided its responses in Appendix 1.
12. However, the LME will remain cognisant of the risks, and will work closely with counterparts in Saudi Arabia to monitor developments in this area, and in particular, in the event of a possible warehouse bankruptcy or insolvency.

Summary of findings and implementation

13. Having reviewed and analysed the feedback received in respect of the Proposal, the LME is today announcing that it will be implementing the proposed amendment to clause 1(d) of section A of the Policy in full and with immediate effect. A clean and redline copy of the revised Policy can be found at appendices 2 and 3 of this Notice respectively.
14. Although the changes to the Policy take immediate effect, they will not have practical impact until the first Location approved under the new Policy (i.e. Jeddah) becomes eligible for the storage of metal (which will be three months after the listing of the first warehouse company in Jeddah). As such, and in practice, no changes will take place to the LME's delivery network until at least three months from today's date.
15. Should market participants have any questions in relation to this Notice, or requests for further clarification regarding the implementation of the Proposal as described in this Notice, please contact the LME Legal team at legal@lme.com.

Georgina Hallett
Chief Sustainability Officer and Head of Physical Markets

cc: LME Board directors
All committees



Appendix 1

LME Responses to Consultation Notice 24/129

	Question/Comment	LME Response
Clarification regarding the bankruptcy/insolvency regime that exists in Saudi Arabia		
1	Can the LME confirm whether it has a formal opinion from Saudi counsel on the insolvency regime that would apply to a Saudi-registered warehouse operator and undertake to publish the opinion?	<p>The LME has obtained a legal opinion regarding the insolvency regime that would apply to an LME-approved Warehouse that operated in Saudi Arabia.</p> <p>The LME has no material concerns arising from the legal opinion. However, the LME is not aware of cases that have been adjudicated on (or are in the process of being adjudicated on) regarding the process that metal owners have entered into to gain possession of their metal in Saudi Arabia, and therefore it is not possible to comment on how the law of Saudi Arabia with respect to insolvency/bankruptcy matters will be applied by its courts in practice.</p> <p>In seeking to understand whether a jurisdiction's system in respect of bankruptcy/insolvency proceedings is generally understood to be efficient, the LME will obtain expert advice, including legal advice from experts in that jurisdiction. It will also take general views on potential jurisdictions from stakeholders, including through its advisory committees.</p> <p>Market participants should be cognisant of the fact that the LME would not progress the application for a Location to be approved as a Delivery Point should it not believe that the LME warranting system would function effectively in that jurisdiction.</p> <p>However, market participants may wish to seek their own legal or other advice in respect of these matters.</p> <p>This answer applies to a number of the questions raised, as indicated below.</p>



2	Can the LME confirm whether the Saudi courts have yet applied the Saudi insolvency regime in the context of a warehouse operator?	See response to question 1.
3	Can the LME confirm whether any legal opinion has identified any circumstances in which a Saudi court may restrict a metal owner's ability to recover their metal in the case of the insolvency of a warehouse operator?	See response to question 1.
Clarification regarding the court process that exists in Saudi Arabia in relation to bankruptcy/insolvency matters		
4	The LME should seek and provide further clarity in relation to the court process to obtain a court order to obtain metal from an insolvent warehousing company.	See response to question 1.
5	Detailed information in relation to the relevant court processes, cost forecasts and duration should be provided prior to the approving this new LME warehousing location.	See response to question 1.
6	What framework will the LME be applying to understand whether a jurisdiction's system is generally understood to be efficient?	See response to question 1.
Status of Warrants under the law of Saudi Arabia		
7	Can the LME confirm the status of LME warrants under the law of Saudi Arabia (i.e. does Saudi Arabia recognise the concept of bailment and the binding nature of dematerialised warrants, or will Saudi Arabia be a Category 2 Jurisdiction (akin to South Korea))?	The LME confirms that Saudi Arabia will be a Category 1 jurisdiction where the delivery of constructive possession of the metal will be effected by local agency law or by way of acknowledgement by the Depository (unaccompanied by the transfer of any physical document or constructive possession of such a document): (i) as principal, to the effect that it holds (constructive) possession of the Underlying Metal as bailee of the transferee from the moment of the transfer; and (ii) as agent of the Warehouse, to the effect that the Warehouse acknowledges the transferee's interest in the Underlying Metal.
8	Does the LME undertake to publish any opinion they have on the effectiveness of title ownership and transfer in respect of warrants covering metal stored in Saudi Arabia?	See response to question 1.
9	Can the LME confirm whether the Saudi courts have yet adjudicated on the effectiveness of dematerialised warrants (or equivalent documentation)?	As far as the LME is aware, the courts in Saudi Arabia are yet to adjudicate on the effectiveness of dematerialised Warrants, although the laws and regulations of the Saudi Arabia in force permit the creation of security over dematerialised warrants.



Other Questions/comments		
10	Is there any distinction set out in the LME Rulebook to distinguish between the bankruptcy of a global warehouse company versus the bankruptcy of the Saudi branch of a global warehouse company?	There is no such distinction either within the LME Rulebook or the Warehouse Agreement, given that the LME anticipates that the metal recovery process would be similar in each case.
11	Might the LME consider reserving the right to revisit the allowance in the event that in any (very unlikely) default, the process of going through the court process to claim possession does not take an unduly inappropriate length of time or incurs unnecessary costs.	In certain circumstances, the LME may delist a Delivery Point if that Delivery Point does not appear to continue to meet the LME's criteria for a Location to be approved as a Delivery Point. These circumstances are broadly described in section D ("Continued compliance with policy and guidelines") of the Policy.
12	Is this location the only one, at present, that has such bankruptcy/insolvency requirements?	The LME understands that all jurisdictions in which Warehouses operate require some form of process for a metal owner to enter into in order to retrieve metal from an insolvent warehouse operator. The LME assesses each jurisdiction on a case-by-case basis for compliance with the Policy (either the version which was in effect prior to the LME issuing the Consultation Notice or the version which is contained at Appendix 2 to this Notice).
13	A market participant had concerns that the LME is proposing to amend the Warehouse Agreement with the sole purpose of accommodating the recent Jeddah application. The market participant believes that the LME should maintain its existing rules and avoid having variable rulings across different jurisdictions.	<p>For clarity, the LME does not propose to amend the Warehouse Agreement but recognises that the same concern can apply equally to a proposed change to the Policy (similar to that which the LME has consulted upon in the Consultation Notice).</p> <p>Ultimately, the LME considers that this represents a philosophical point. The Policy was introduced in 1998, and hence was authored to respect the ways of working in jurisdictions at that time. Since the introduction of the Policy, four new countries/regions (Malaysia, Taiwan, Korea and the United Arab Emirates) have been added to the LME warehouse network.</p> <p>If the network is to continue expanding, the LME considers it logical that the ways of working in prospective new jurisdictions may not be fully consistent with the views</p>



		<p>of the Policy as envisaged over two decades ago when it was first issued.</p> <p>The LME believes that the growth in its global warehousing network (e.g. the introduction of US warehousing in 1990) has been positive for its global contracts, and believes that it has a responsibility to continue expanding the network where driven by global metal flows. While this will not be at the expense of network stability, it would be irresponsible for the LME to refuse to consider evolution of the Policy where this facilitates commercially appropriate and risk-managed growth of the global delivery network.</p>
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Appendix 2

LME Policy on the Approval of Locations as Delivery Points (Clean)

LME POLICY ON THE APPROVAL OF LOCATIONS AS DELIVERY POINTS, REVISED [29 July 2024]

A) Policy Criteria

- 1 For a new Location to be approved as a Delivery Point, the following criteria shall be met:
 - (a) For any particular metal subject to LME Contracts to be deliverable therein, the Location should be in an Area of Net Consumption and away from adjacent areas of production for that particular metal.
 - (b) The Location should be capable of becoming, a natural, logistically sound conduit for the passage of metal on to eventual consumption points:
 - (i) The Location should be positioned on the natural route (e.g. trade lanes which would exist without Authorised Warehouses) – current or potential if a consumption is believed to happen in the future (e.g. set-up of a new plant) - to the consumption centres that it serves. This is assessed, without limitation, to the quantity of metal going through the Location;
 - (ii) The Location should be connected to major trade lanes, allowing other consumption centres to be reached. This is assessed, without limitation, by reference to the number of deep sea connections (number of origins and destinations ("O/D") services, frequency of services, number of shipping lines serving the Location) and the volume handled by the Location (both break-bulk and containers).
 - (c) The Location should be, in the reasonable view of the LME, safe, well managed, politically and economically stable, commercially sensible, fiscally appropriate, legally sound and not subject to corruption.



- (d) In the event of bankruptcy or insolvency of the Warehouse or other such contingency, there must be no restrictions placed upon owners of metal wishing to take possession of their individually identified metal and remove such metal from the Authorised Warehouse(s) (provided rent and handling charges are paid). This must be incorporated in the law of the jurisdiction in which the Location is situated. The LME understands that in certain jurisdictions, if a Warehouse becomes bankrupt or insolvent, a metal owner may be required to enter into a court process in order to take possession of the metal which they own and remove it from the Warehouse. The LME does not consider such a process to represent a “restriction” for the purposes of this Clause. However, the LME may (in its absolute discretion) reject a Location if concerns exist as to the speed or effectiveness of the court process that exists within the Location and which a metal owner may be required to enter into in order to take possession of the metal which they own from a Warehouse that is declared bankrupt and/or insolvent.
 - (e) Metal stored in Authorised Warehouses is the subject of international banking finance activity and, as such, the LME will only approve Locations where it is satisfied that the international banking community accepts the fully negotiable nature of the warehouse receipts ("LME warrants") being on a par with already approved Delivery Points.
 - (f) Indefinite storage of metals must be permitted in a secure customs warehousing regime wherein any LME listed brand of metal may be stored without liability for duties prior to customs clearance. Domestically produced metal and any metal previously customs cleared, and with any duty accounted for, must also be allowed to be stored in the same Authorised Warehouses as bonded metal. There must be no liability for taxes on transactions for metal held in such Authorised Warehouses, nor a need for the Warehouse to determine ownership of the metal whilst in store. There must also be no taxes on storage costs.
- 2 The LME will not usually be prepared to approve a Location where there would be only a single Warehouse in such Location. A Location must be capable of hosting more than one Warehouse. The LME reserves the right to delist a Delivery Point which no longer hosts a Warehouse.
- 3 Without limitation to LME's discretion, the LME may refuse to approve a Location as a Delivery Point where the Location does not comply with the criteria specified above or where the LME has reasonable concerns regarding the potential for the Location to cause an adverse reputational impact for the LME, group affiliates of the LME, or users of the facilities maintained by the LME or such group affiliates.

B) Criteria related to Working Practices and Facilities for Locations

- 1 It is required that there are a minimum of 3 working berths, private or public and accessible by each Warehouse, with a minimum water depth of 11 metres at all times.



- 2 The port must have the facilities available to be able to load 1500 tonnes per berth, per Weather Working Day. This standard has been set on the basis of aluminium ingots and, although the LME has an expectation that ports would be able to achieve higher rates for other metals, no specific separate standard has been set for them.
- 3 Standard working practice must be a minimum 8-hour working day (with labour normally available to work overtime if demand warrants) and on the basis of a 5-day working week.
- 4 Each Location must have container and break bulk terminals.
- 5 Rail connectivity is required in the US and in the following European countries: Germany, Belgium, Netherlands, Sweden. When considering an application to be a Delivery Point in a new country, the LME will carry out a specific study to determine if rail is required.
- 6 An Inland Location may be approved as a Delivery Point on a case by case basis and, if necessary, the criteria in paragraphs 1-5 above may be waived. Applications for Inland Locations to be Delivery Points shall be considered with reference to the following criteria related to working practices and facilities for Locations:
 - (a) Whether they are positioned on land trade lanes (i.e. metal naturally goes from production to consumption centres only through land transportation) with significant volumes;
 - (b) Barge and rail connectivity;
 - (c) In addition to connectivity to consumption centres in the Area, the existence of connectivity to major export ports of the relevant Area, through rail and barging;
 - (d) Minimum capacity of 4,500 tonnes per Weather Working Day, through a combination of rail and barging terminals accessible by each Warehouse.
- 7 The maximum geographical distance of the Location of an Authorised Warehouse from the appropriate water and rail terminals (when necessary) is to be established by the LME. The existing Delivery Point boundaries may be increased on a case by case basis in circumstances of shortage of storage capacity by small increments of driving distance and subject to reasonable transit time. The demonstration of shortage of storage capacity will have to be made by the applicant before being reviewed by the LME.
- 8 While there may be exceptions to the above criteria, such exceptions are expected to be rare.

C) Application process

- 1 Applications for approval as Delivery Points by the LME should comply with the following process:



- (a) The presentation of the initial Location application, with the supporting information requested, should be made by the port authority or (in exceptional cases) such other relevant authority controlling warehousing in the Location. If there is no such authority then an application may be made by a Warehouse.
- (b) It should be noted that there is no set time scale for approving or otherwise any application due to the indeterminate time required to process all aspects of the application. The application process is structured with at least four gates, whereby each needs to be passed before proceeding to the next gate
 - (i) Gate 1: complete submission of all documents required by the LME to process the application and determine whether the basic criteria are satisfied;
 - (ii) Gate 2: technical assessment by the LME based on the criteria listed in this policy;
 - (iii) Gate 3: committee input (Metal Committee giving non-binding opinion on the Area of Net Consumption and Warehousing Committee giving non-binding opinion on logistics connectivity and infrastructure); and
 - (iv) Gate 4: Final assessment by the LME and formal decision.
- (c) Should an application be accepted by the EXCOM, commencement of LME approved operations would not take place for a minimum of 90 days after Board approval and would be subject to applicant Warehouses being similarly approved.
- (d) A Location should have substantial logistical connections on international trading routes. It is the responsibility of the applicant to provide at least the following information:
 - (i) Statistical evidence of throughput tonnages of LME metals by means of contact with the metals trade, forwarding agents, fabricators, producers, warehouse companies, traders etc to support the application:
 - (A) Statistics on production and consumption as well as imports and exports in the Area;
 - (B) Major production plants and consumption and associated volumes in the Area; and
 - (C) Trade flows serviced (i.e., O/D served) with associated services in the Area.
 - (ii) Logistics connections:
 - (A) Maritime: number of short sea and deep sea connections, number of shipping lines calling at the port, frequency of services;



- (B) Rail: frequency of service and time to access major consumption points; and
 - (C) If applicable, barge: frequency of services and time to access major consumption points.
 - (iii) Detail/data of the logistics support services of the Location:
 - (A) Container terminals, break-bulk terminals and rail terminals (including crane infrastructure);
 - (B) Number, length and depth of berths (including draft for access e.g. river draft); and
 - (C) Number and capacity of rail terminals.
 - (iv) Approximate percentage utilisation of services of road/rail/water (as applicable) for both inbound and outbound traffic in metals.
 - (v) Logistics infrastructure:
 - (A) Estimation of number of available sheds that warehousing companies can use for LME storage operations; and
 - (B) Detailed maps / plans showing the outline of the Location evidencing the logistical connections and locations of short/long term warehouse facilities are required.
 - (vi) If applicable, description of any potential or actual exercise of control in activities such as terminal operations, warehouse ownership, logistics operations within the port, etc and the anticipated impact on competition in relation to warehousing operations in the Location.
- (e) A description of the Location's work labour practices is required; and should include at least the following elements:
 - (i) Working / overtime hours;
 - (ii) Labour costs; and
 - (iii) Time to load truck / rail / container.
- (f) This should illustrate the degree of integrated warehousing/ forwarding/stevedoring activities and whether it/they are privately/ municipality run. Normal working hours and overtime potential should be explained so that the LME may gauge productivity in comparison with currently approved Delivery Points.



- (g) A description of matters relevant to the Location's corruption and bribery risk is required. This should describe in broad terms whether the Location has enacted, and whether it routinely enforces, laws relating to the corruption of Public Officials; whether demands for facilitation payments are commonly made by Public Officials in the Location; and (if relevant) what, if any, steps are underway or planned to address such issues.
- (h) The LME is entitled to request any external third party studies that it deems necessary to investigate any specific aspects, at the applicant's expense. This diligence may cover, without limitation, at least the following areas:
 - (i) Metal ownership – confirmation that:
 - (A) Warrants and warehouse receipts would be capable of being the document of title, and ownership of warrants can be transferred using LMEsword or any successor system; and
 - (B) Metal belonging to the owner can be removed in case of bankruptcy or insolvency of a potential applicant Warehouse, subject only to any outstanding rent and handling charges having been paid.
 - (ii) Companies – confirmation that:
 - (A) Potential applicant Warehouses can be owned by foreign entities;
 - (B) Operations in foreign currency are allowed;
 - (C) There is no restriction on the repatriation of profits from the location.
 - (iii) Taxes - confirmation that:
 - (A) The tax and duty free environment is appropriate in connection with transactions involving metal stored in the location, or on services provided in relation to the metal e.g. storage, ancillary services, stevedoring & handling;
 - (B) There would be no location duties and no time limit on storage of metal;
 - (C) Any seller / buyer who is not established in the territory of the country would not be obliged to have a tax registration or to submit a tax return solely on account of the trading of metal in warehouse; and
 - (D) Metal bound for export or moving between different Warehouses / Locations would not be liable to tax or duty.
 - (iv) Others – confirmation that:



- (A) There would be no conflict between LME requirements and insurance laws that preclude potential applicant Warehouses from obtaining the necessary cover under the Warehouse Agreement;
 - (B) There would be no requirement to keep lists of metal owners;
 - (C) There should be no requirement to report sales of metals made within the Warehouse;
 - (D) There would be no embargo (other than an United Nations-related embargo) against origin countries for metals for which a location is seeking approval as a Delivery Point;
 - (E) There are no export license requirements;
 - (F) Domestic and foreign goods can be stored in the same warehouse environment; and
 - (G) Metals within the same (HS) harmonized system codes as LME listed brands will be treated in like manner as LME listed brands
- (i) The LME will need to be satisfied by its own members, warehousing and appropriate metals committees, professional advisers and independent research that each facet of the application is accurate before indicating acceptance in principle of a Location. At this stage it would be necessary for potential applicant Warehouses to be identified which would apply for LME approval, if this has not already been done.
 - (j) The LME will report to the Warehousing Committee the number and identity of Delivery Point applicants by gate on a regular basis.
- 2 In the event that no Warehouse has been approved for a Delivery Point within six months of the LME's approval of that Delivery Point pursuant to this Section C:
- (a) the LME's approval of that Delivery Point shall lapse, unless (b) below applies;
 - (b) where, prior to the expiry of such six month period:
 - (i) a Warehouse has provided to the LME information regarding a proposed application to operate at such Delivery Point and the LME is satisfied that (i) such application will be provided within a reasonable period and (ii) it has sufficient information to determine that such application will be a substantive application submitted in good faith; or
 - (ii) where the LME, in its absolute discretion, otherwise determines it appropriate to do so,



the LME may, by written notice to the port authority (or, if applicable, other relevant authority), extend the period within which such application must be made before the approval of the Delivery Point shall lapse; and

- (c) in the event that the LME's approval of the Delivery Point does lapse, the port authority (or, if applicable, other relevant authority) wishes such Location to be approved as a Delivery Point, such authority must submit a new application for such Location to be approved, in accordance with this Section C.

D) Continued compliance with policy and guidelines

- 1 In the event that an existing Delivery Point does not appear to continue to meet the LME's criteria, there will be an initial review by the LME and consultation with the Warehouse and the port authority in that Delivery Point.
- 2 If, after consultation the port authority is able to demonstrate that it will upgrade its facilities, transitional arrangements can be made to allow an acceptable length of time for completion and this would be determined on a case by case basis, according to the circumstances.
- 3 If, after consultation, the relevant port authority is unwilling or unable to upgrade the facilities or work practices to meet the LME's standards, the LME retains the right to limit the capacity in that Delivery Point or to delist it.
- 4 Where a Delivery Point's corruption risk changes, LME retains the right to limit the capacity in that Delivery Point or to delist it.
- 5 Generally speaking, implementation of capacity limits would, unless there are exceptional circumstances, be implemented over a reasonable period by imposing a ban on new warrants being issued and allowing natural wastage to bring levels down to the required tonnage. Similarly, delisting a Delivery Point would require a run down of stocks over a reasonable period of time by imposing a ban on the issuing of new warrants and natural wastage, followed by an eventual de-warranting of any remaining metal and its removal to another Delivery Point for re-warranting. In both these instances the LME would assess what implementation period would be reasonable on a case by case basis, taking into account all factors put forward in the consultation process, and it could be several years where the LME deems appropriate.
- 6 Delivery Points are, in particular, expected to continue to support the operation of multiple warehouse operators on a non-discriminatory basis. To the extent that a prospective operator of an Authorised Warehouse is of the view that they are prevented from establishing LME operations at a given Delivery Point, this may be reported to the Exchange, which will subsequently investigate the situation, mindful of relevant factors including those listed at paragraph A3 of the LME Policy on the Approval and Operation of Warehouses, paragraph A of this Policy, and applicable competition law.



E) **Review of LME policy and guidelines for good delivery points**

This policy and guidelines will be reviewed from time to time.

F) **Definitions**

"Authorised Warehouse" shall mean a warehouse storage facility operated by a Warehouse in a particular Delivery Point, which has been approved by the LME for the purposes of the Warehouse Agreement.

"Area" shall mean a country, regions of large countries, or an aggregation of small countries with an integrated logistics land network as determined by the LME acting reasonably.

"Delivery Point" shall mean a specific geographic area within which warehouses are listed and approved by the LME for the issue of Warrants.

"EXCOM" shall mean the Executive Committee of the LME.

"Inland Location" means a geographic area away from all of (i) the sea; (ii) a deltaic area; or (iii) an estuarine area.

"LME" or the **"Exchange"** shall mean The London Metal Exchange.

"LME Contract" shall mean a contract as defined by the LME Rulebook.

"Location" shall mean a geographic area capable of being a Delivery Point.

"Metal Committee" shall mean the relevant LME metal committee, details of which are set out on the LME website www.lme.com.

"Net Consumption" shall mean a significant negative trade balance for the metal in question across two consecutive years.

"Public Official" means an official, whether elected or appointed, who holds a legislative, administrative or judicial position of any kind of a country or territory inside or outside the UK.

"Warehouse" shall mean a warehouse company which has been approved by the LME and which has agreed to be bound by the terms and conditions applicable to all LME approved warehouses, as amended by the LME from time to time.

"Warehouse Agreement" shall mean the terms and conditions entered into between the Warehouse and the LME, as applicable to all LME listed Warehouses.



"Warehousing Committee" shall mean the LME warehousing committee, details of which are set out on the LME website www.lme.com.

"Warrant" shall mean a warehouse warrant for the storage of metal, issued by a Warehouse and in a form approved by the LME.

"Weather Working Day" shall mean any day in which meteorological conditions permit normal operations.

Appendix 3

LME Policy on the Approval of Locations as Delivery Points (Redline)

LME POLICY ON THE APPROVAL OF LOCATIONS AS DELIVERY POINTS, REVISED [1 FEBRUARY 2020 29 July 2024]

A) Policy Criteria

- 1 For a new Location to be approved as a Delivery Point, the following criteria shall be met:
 - (a) For any particular metal subject to LME Contracts to be deliverable therein, the Location should be in an Area of Net Consumption and away from adjacent areas of production for that particular metal.
 - (b) The Location should be capable of becoming, a natural, logistically sound conduit for the passage of metal on to eventual consumption points:
 - (i) The Location should be positioned on the natural route (e.g. trade lanes which would exist without Authorised Warehouses) – current or potential if a consumption is believed to happen in the future (e.g. set-up of a new plant) - to the consumption centres that it serves. This is assessed, without limitation, to the quantity of metal going through the Location;
 - (ii) The Location should be connected to major trade lanes, allowing other consumption centres to be reached. This is assessed, without limitation, by reference to the number of deep sea connections (number of origins and destinations ("O/D") services, frequency of services, number of shipping lines serving the Location) and the volume handled by the Location (both break-bulk and containers).
 - (c) The Location should be, in the reasonable view of the LME, safe, well managed, politically and economically stable, commercially sensible, fiscally appropriate, legally sound and not subject to corruption.
 - (d) In the event of bankruptcy or insolvency of the Warehouse or other such contingency, there must be no restrictions placed upon owners of metal wishing to take possession of their individually identified metal and remove such metal # from the Authorised Warehouse(s) (provided rent and handling charges are paid). This must be incorporated in the law of the jurisdiction in which the Location is situated. The LME understands that in certain jurisdictions, if a Warehouse becomes bankrupt or insolvent, a metal owner may be required to enter into a court process in order to take possession of the metal which they own and remove it



from the Warehouse. The LME does not consider such a process to represent a “restriction” for the purposes of this Clause. However, the LME may (in its absolute discretion) reject a Location if concerns exist as to the speed or effectiveness of the court process that exists within the Location and which a metal owner may be required to enter into in order to take possession of the metal which they own from a Warehouse that is declared bankrupt and/or insolvent.

- (e) Metal stored in Authorised Warehouses is the subject of international banking finance activity and, as such, the LME will only approve Locations where it is satisfied that the international banking community accepts the fully negotiable nature of the warehouse receipts ("LME warrants") being on a par with already approved Delivery Points.
 - (f) Indefinite storage of metals must be permitted in a secure customs warehousing regime wherein any LME listed brand of metal may be stored without liability for duties prior to customs clearance. Domestically produced metal and any metal previously customs cleared, and with any duty accounted for, must also be allowed to be stored in the same Authorised Warehouses as bonded metal. There must be no liability for taxes on transactions for metal held in such Authorised Warehouses, nor a need for the Warehouse to determine ownership of the metal whilst in store. There must also be no taxes on storage costs.
- 2 The LME will not usually be prepared to approve a Location where there would be only a single Warehouse in such Location. A Location must be capable of hosting more than one Warehouse. The LME reserves the right to delist a Delivery Point which no longer hosts a Warehouse.
- 3 Without limitation to LME's discretion, the LME may refuse to approve a Location as a Delivery Point where the Location does not comply with the criteria specified above or where the LME has reasonable concerns regarding the potential for the Location to cause an adverse reputational impact for the LME, group affiliates of the LME, or users of the facilities maintained by the LME or such group affiliates.

B) Criteria related to Working Practices and Facilities for Locations

- 1 It is required that there are a minimum of 3 working berths, private or public and accessible by each Warehouse, with a minimum water depth of 11 metres at all times.
- 2 The port must have the facilities available to be able to load 1500 tonnes per berth, per Weather Working Day. This standard has been set on the basis of aluminium ingots and, although the LME has an expectation that ports would be able to achieve higher rates for other metals, no specific separate standard has been set for them.



- 3 Standard working practice must be a minimum 8-hour working day (with labour normally available to work overtime if demand warrants) and on the basis of a 5-day working week.
- 4 Each Location must have container and break bulk terminals.
- 5 Rail connectivity is required in the US and in the following European countries: Germany, Belgium, Netherlands, Sweden. When considering an application to be a Delivery Point in a new country, the LME will carry out a specific study to determine if rail is required.
- 6 An Inland Location may be approved as a Delivery Point on a case by case basis and, if necessary, the criteria in paragraphs 1-5 above may be waived. Applications for Inland Locations to be Delivery Points shall be considered with reference to the following criteria related to working practices and facilities for Locations:
 - (a) Whether they are positioned on land trade lanes (i.e. metal naturally goes from production to consumption centres only through land transportation) with significant volumes;
 - (b) Barge and rail connectivity;
 - (c) In addition to connectivity to consumption centres in the Area, the existence of connectivity to major export ports of the relevant Area, through rail and barging;
 - (d) Minimum capacity of 4,500 tonnes per Weather Working Day, through a combination of rail and barging terminals accessible by each Warehouse.
- 7 The maximum geographical distance of the Location of an Authorised Warehouse from the appropriate water and rail terminals (when necessary) is to be established by the LME. The existing Delivery Point boundaries may be increased on a case by case basis in circumstances of shortage of storage capacity by small increments of driving distance and subject to reasonable transit time. The demonstration of shortage of storage capacity will have to be made by the applicant before being reviewed by the LME.
- 8 While there may be exceptions to the above criteria, such exceptions are expected to be rare.

C) Application process

- 1 Applications for approval as Delivery Points by the LME should comply with the following process:
 - (a) The presentation of the initial Location application, with the supporting information requested, should be made by the port authority or (in



exceptional cases) such other relevant authority controlling warehousing in the Location. If there is no such authority then an application may be made by a Warehouse.

- (b) It should be noted that there is no set time scale for approving or otherwise any application due to the indeterminate time required to process all aspects of the application. The application process is structured with at least four gates, whereby each needs to be passed before proceeding to the next gate
 - (i) Gate 1: complete submission of all documents required by the LME to process the application and determine whether the basic criteria are satisfied;
 - (ii) Gate 2: technical assessment by the LME based on the criteria listed in this policy;
 - (iii) Gate 3: committee input (Metal Committee giving non-binding opinion on the Area of Net Consumption and Warehousing Committee giving non-binding opinion on logistics connectivity and infrastructure); and
 - (iv) Gate 4: Final assessment by the LME and formal decision.
- (c) Should an application be accepted by the EXCOM, commencement of LME approved operations would not take place for a minimum of 90 days after Board approval and would be subject to applicant Warehouses being similarly approved.
- (d) A Location should have substantial logistical connections on international trading routes. It is the responsibility of the applicant to provide at least the following information:
 - (i) Statistical evidence of throughput tonnages of LME metals by means of contact with the metals trade, forwarding agents, fabricators, producers, warehouse companies, traders etc to support the application:
 - (A) Statistics on production and consumption as well as imports and exports in the Area;
 - (B) Major production plants and consumption and associated volumes in the Area; and
 - (C) Trade flows serviced (i.e., O/D served) with associated services in the Area.
 - (ii) Logistics connections:



- (A) Maritime: number of short sea and deep sea connections, number of shipping lines calling at the port, frequency of services;
 - (B) Rail: frequency of service and time to access major consumption points; and
 - (C) If applicable, barge: frequency of services and time to access major consumption points.
- (iii) Detail/data of the logistics support services of the Location:
- (A) Container terminals, break-bulk terminals and rail terminals (including crane infrastructure);
 - (B) Number, length and depth of berths (including draft for access e.g. river draft); and
 - (C) Number and capacity of rail terminals.
- (iv) Approximate percentage utilisation of services of road/rail/water (as applicable) for both inbound and outbound traffic in metals.
- (v) Logistics infrastructure:
- (A) Estimation of number of available sheds that warehousing companies can use for LME storage operations; and
 - (B) Detailed maps / plans showing the outline of the Location evidencing the logistical connections and locations of short/long term warehouse facilities are required.
- (vi) If applicable, description of any potential or actual exercise of control in activities such as terminal operations, warehouse ownership, logistics operations within the port, etc and the anticipated impact on competition in relation to warehousing operations in the Location.
- (e) A description of the Location's work labour practices is required; and should include at least the following elements:
- (i) Working / overtime hours;
 - (ii) Labour costs; and
 - (iii) Time to load truck / rail / container.
- (f) This should illustrate the degree of integrated warehousing/ forwarding/stevedoring activities and whether it/they are privately/ municipality run. Normal working hours and overtime potential should be



explained so that the LME may gauge productivity in comparison with currently approved Delivery Points.

- (g) A description of matters relevant to the Location's corruption and bribery risk is required. This should describe in broad terms whether the Location has enacted, and whether it routinely enforces, laws relating to the corruption of Public Officials; whether demands for facilitation payments are commonly made by Public Officials in the Location; and (if relevant) what, if any, steps are underway or planned to address such issues.
- (h) The LME is entitled to request any external third party studies that it deems necessary to investigate any specific aspects, at the applicant's expense. This diligence may cover, without limitation, at least the following areas:
 - (i) Metal ownership – confirmation that:
 - (A) Warrants and warehouse receipts would be capable of being the document of title, and ownership of warrants can be transferred using LMEsword or any successor system; and
 - (B) Metal belonging to the owner can be removed in case of bankruptcy or insolvency of a potential applicant Warehouse, subject only to any outstanding rent and handling charges having been paid.
 - (ii) Companies – confirmation that:
 - (A) Potential applicant Warehouses can be owned by foreign entities;
 - (B) Operations in foreign currency are allowed;
 - (C) There is no restriction on the repatriation of profits from the location.
 - (iii) Taxes - confirmation that:
 - (A) The tax and duty free environment is appropriate in connection with transactions involving metal stored in the location, or on services provided in relation to the metal e.g. storage, ancillary services, stevedoring & handling;
 - (B) There would be no location duties and no time limit on storage of metal;
 - (C) Any seller / buyer who is not established in the territory of the country would not be obliged to have a tax



registration or to submit a tax return solely on account of the trading of metal in warehouse; and

- (D) Metal bound for export or moving between different Warehouses / Locations would not be liable to tax or duty.

(iv) Others – confirmation that:

- (A) There would be no conflict between LME requirements and insurance laws that preclude potential applicant Warehouses from obtaining the necessary cover under the Warehouse Agreement;
- (B) There would be no requirement to keep lists of metal owners;
- (C) There should be no requirement to report sales of metals made within the Warehouse;
- (D) There would be no embargo (other than an United Nations-related embargo) against origin countries for metals for which a location is seeking approval as a Delivery Point;
- (E) There are no export license requirements;
- (F) Domestic and foreign goods can be stored in the same warehouse environment; and
- (G) Metals within the same (HS) harmonized system codes as LME listed brands will be treated in like manner as LME listed brands

(i) The LME will need to be satisfied by its own members, warehousing and appropriate metals committees, professional advisers and independent research that each facet of the application is accurate before indicating acceptance in principle of a Location. At this stage it would be necessary for potential applicant Warehouses to be identified which would apply for LME approval, if this has not already been done.

(j) The LME will report to the Warehousing Committee the number and identity of Delivery Point applicants by gate on a regular basis.

2 In the event that no Warehouse has been approved for a Delivery Point within six months of the LME's approval of that Delivery Point pursuant to this Section C:

(a) the LME's approval of that Delivery Point shall lapse, unless (b) below applies;



- (b) where, prior to the expiry of such six month period:
- (i) a Warehouse has provided to the LME information regarding a proposed application to operate at such Delivery Point and the LME is satisfied that (i) such application will be provided within a reasonable period and (ii) it has sufficient information to determine that such application will be a substantive application submitted in good faith; or
 - (ii) where the LME, in its absolute discretion, otherwise determines it appropriate to do so,

the LME may, by written notice to the port authority (or, if applicable, other relevant authority), extend the period within which such application must be made before the approval of the Delivery Point shall lapse; and
- (c) in the event that the LME's approval of the Delivery Point does lapse, the port authority (or, if applicable, other relevant authority) wishes such Location to be approved as a Delivery Point, such authority must submit a new application for such Location to be approved, in accordance with this Section C.

D) Continued compliance with policy and guidelines

- 1 In the event that an existing Delivery Point does not appear to continue to meet the LME's criteria, there will be an initial review by the LME and consultation with the Warehouse and the port authority in that Delivery Point.
- 2 If, after consultation the port authority is able to demonstrate that it will upgrade its facilities, transitional arrangements can be made to allow an acceptable length of time for completion and this would be determined on a case by case basis, according to the circumstances.
- 3 If, after consultation, the relevant port authority is unwilling or unable to upgrade the facilities or work practices to meet the LME's standards, the LME retains the right to limit the capacity in that Delivery Point or to delist it.
- 4 Where a Delivery Point's corruption risk changes, LME retains the right to limit the capacity in that Delivery Point or to delist it.
- 5 Generally speaking, implementation of capacity limits would, unless there are exceptional circumstances, be implemented over a reasonable period by imposing a ban on new warrants being issued and allowing natural wastage to bring levels down to the required tonnage. Similarly, delisting a Delivery Point would require a run down of stocks over a reasonable period of time by imposing a ban on the issuing of new warrants and natural wastage, followed by an eventual de-warranting of any remaining metal and its removal to another Delivery Point for re-warranting. In both these instances the LME would assess what implementation period would be reasonable on a case by case basis,



taking into account all factors put forward in the consultation process, and it could be several years where the LME deems appropriate.

- 6 Delivery Points are, in particular, expected to continue to support the operation of multiple warehouse operators on a non-discriminatory basis. To the extent that a prospective operator of an Authorised Warehouse is of the view that they are prevented from establishing LME operations at a given Delivery Point, this may be reported to the Exchange, which will subsequently investigate the situation, mindful of relevant factors including those listed at paragraph A3 of the LME Policy on the Approval and Operation of Warehouses, paragraph A of this Policy, and applicable competition law.

E) Review of LME policy and guidelines for good delivery points

This policy and guidelines will be reviewed from time to time.

F) Definitions

"Authorised Warehouse" shall mean a warehouse storage facility operated by a Warehouse in a particular Delivery Point, which has been approved by the LME for the purposes of the Warehouse Agreement.

"Area" shall mean a country, regions of large countries, or an aggregation of small countries with an integrated logistics land network as determined by the LME acting reasonably.

"Delivery Point" shall mean a specific geographic area within which warehouses are listed and approved by the LME for the issue of Warrants.

"EXCOM" shall mean the Executive Committee of the LME.

"Inland Location" means a geographic area away from all of (i) the sea; (ii) a deltaic area; or (iii) an estuarine area.

"LME" or the **"Exchange"** shall mean The London Metal Exchange.

"LME Contract" shall mean a contract as defined by the LME Rulebook.

"Location" shall mean a geographic area capable of being a Delivery Point.

"Metal Committee" shall mean the relevant LME metal committee, details of which are set out on the LME website www.lme.com.

"Net Consumption" shall mean a significant negative trade balance for the metal in question across two consecutive years.

"Public Official" means an official, whether elected or appointed, who holds a legislative, administrative or judicial position of any kind of a country or territory inside or outside the UK.



"Warehouse" shall mean a warehouse company which has been approved by the LME and which has agreed to be bound by the terms and conditions applicable to all LME approved warehouses, as amended by the LME from time to time.

"Warehouse Agreement" shall mean the terms and conditions entered into between the Warehouse and the LME, as applicable to all LME listed Warehouses.

"Warehousing Committee" shall mean the LME warehousing committee, details of which are set out on the LME website www.lme.com.

"Warrant" shall mean a warehouse warrant for the storage of metal, issued by a Warehouse and in a form approved by the LME.

"Weather Working Day" shall mean any day in which meteorological conditions permit normal operations.