

From: Sir Brian Bender, Chairman

17 January 2014

HM Treasury
1 Horse Guards Road
Westminster
London SW1A 2HQ

By email

Dear Sir / Madam

BALANCE OF COMPETENCES REVIEW – SINGLE MARKET: FINANCIAL SERVICES AND THE FREE MOVEMENT OF CAPITAL

1 The London Metal Exchange ("LME") welcomes the opportunity to respond to the Call for Evidence regarding the competences of the European Union (EU) in the field of Financial Services and the free movement of capital, as detailed in your paper of October 2013.

2 The LME is the world's premier base metals market; indeed, it is unique on a global scale, with its main competitors located outside the EU. Our status as a Recognised Investment Exchange (RIE) means that we are directly supervised under the UK recognition requirements of the Financial Conduct Authority (FCA), but are also subject to the legislative requirements of the European Securities and Markets Authority (ESMA) applied to us by the FCA as our National Competent Authority. The LME is therefore well placed to comment on the EU's balance of competences insofar as it directly affects us.

3 First established in 1877, the LME provides a transparent forum for the trading of base metals worldwide and, as a result, enables the global industry to 'discover' the price of metals for all dates from spot to months and years ahead. Daily LME prices have become the accepted reference prices for worldwide trading in those metals, and it is this use of a single LME reference price for all activity relating to these individual markets that underpins the global metals industry today.

4 The fact that the LME has such a unique offering does mean that European policy formulation does not always account for the specificities and complexities of our market. Whilst it is fair to say that the UK Financial Authorities understand the LME and how we operate, the same cannot always be said for those involved in the European legislative process, and considerable time is spent by the LME on ensuring that stakeholders in Europe are appropriately briefed and made aware of how European legislation will adversely affect us by virtue of not giving enough consideration to our role in establishing global reference prices.



5 This is worsened by the fact that, in many cases, such adverse impacts are unintended consequences of the move towards increased harmonisation of policy across Europe. We have observed this with the recent trialogue discussions on MiFID II position limits which, from having set out with the well-intentioned objective of establishing limits on agricultural food prices, are now putting in place a universal position limit regime encompassing all commodities, without enough consideration of the LME's own existing position management controls tailored to the specificities of our market. Put simply, a one-size-fits-all approach to European policy such as this is not appropriate.

6 The increased shift of policy-making towards a European rather than a national basis also places greater onus on the respective European Supervisory Authorities to maintain appropriate oversight and control of the industry under their jurisdiction. From an ESMA perspective, this has arguably put greater strain on what is already a thinly stretched resource pool, and makes it even more challenging for them to have a comprehensive and up-to-date understanding of the markets that they are being asked to govern.

7 Allied to this, a more appropriate balance should, in our view, be struck between the implementation of Directives versus Regulations. Whilst increasing moves towards the use of Regulations may ensure greater consistency across European Member States, it does not always account for the individual characteristics of both national markets and organisations such as ours which operate within them. Directives will obviously provide the flexibility of national application, enabling National Competent Authorities to apply their more intimate knowledge of individual markets, but this will be, we believe, at the expense of harmonisation in the region.

8 In summary, it is clear to the LME that ensuring an appropriate balance of competences between the UK and EU is of paramount importance, particularly in a sector as critical as Financial Services is to the UK economy. Whilst we fully recognise the virtues of greater harmonisation and moves towards regional supervision, we would recommend that this is carefully balanced against the specificities of individual markets to ensure that any unintended consequences of such moves do not create even greater risks to the system than the ones they are seeking to mitigate.

Yours sincerely

Sir Brian Bender
Chairman, London Metal Exchange