Neutral citation [2026] CAT 73

IN THE COMPETITION APPEAL TRIBUNAL

Case No: 1791/5/7/26

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

22 September 2026

Before:

HODGE MALEK KC
(Chair)

Sitting as a Tribunal in England and Wales

BETWEEN:

(1) ELLIOTT ASSOCIATES, L.P.
(2) ELLIOTT INTERNATIONAL, L.P.

Applicants/Claimants

– and –

(1) THE LONDON METAL EXCHANGE

(2) HONG KONG EXCHANGES AND CLEARING LIMITED

Respondents/ Defendants

RULING (SERVICE OUT OF THE JURISDICTION)

A. INTRODUCTION

1. By an application dated 3 September 2026 the Claimants, Elliott Associates, L.P. and Elliott International, L.P. (the **Applicants**) seek permission pursuant to r. 31(2) of the Competition Appeal Tribunal Rules 2015 (the **2015 Rules**) to serve the claim form out of the jurisdiction on the Second Defendant, Hong Kong Exchanges and Clearing Limited (**HKEX**) (the **Application**). The Second Defendant is a private limited company incorporated in Hong Kong, with its registered address in Hong Kong.

2. The Applicants contend that their claim has a reasonable prospect of success and rely on the jurisdictional gateways listed in CPR PD6B §3.1(3) and each of the limbs in §3.1(9). The Application is supported by a witness statement of Ms Samantha Ward, a partner in the Applicants' firm of solicitors, Clifford Chance LLP (**Ward 1**) in addition to the claim form and supporting documents. I have also considered the letters dated 22 May 2026 from each of the Defendants' solicitors in response to the Applicants' letter before action dated 13 April 2026. These letters in effect contend that the claim lacks merit and the grounds of defence are so strong that the claim is liable to be struck out or the subject of reverse summary judgment in the Defendants' favour.

B. THE PARTIES

3. The Applicants are investment funds managed by Elliott Investment Management, L.P. and its affiliates.

4. The First Defendant, the London Metal Exchange (the **LME)** is a private unlimited company incorporated under the laws of England and Wales which operates a commodities exchange based in London.

5. The Second Defendant, HKEX, is a private limited company incorporated in Hong Kong and has its registered office in Hong Kong.

C. THE CLAIM

6. In summary, the claim arises out of the events that took place on the market for nickel futures that were traded on the LME in March 2022 (the **Nickel Crisis**) which ultimately led to a suspension in trading and a cancellation of trades made on 8 March 2022.

7. The claim form details a standalone claim for damages under s. 47A of the Competition Act 1998 (**CA98**) alleging that the Defendants abused their dominant position, contrary to the Chapter II prohibition, in the market for exchange-trading services for nickel futures readily traded by market participants regardless of domicile (the **Exchange Services Market**) by continuing to offer exchange trading services, despite not having appropriate mechanisms to manage volatility and conflicts of interest.

8. In particular, the Applicants allege that the Defendants, as a dominant undertaking, had a special responsibility not to allow their conduct to impair genuine undistorted competition in the Exchange Services Market. That responsibility included the obligations:

   (i) to have in place adequate, appropriate and effective systems to, among other things, prevent disorderly trading during periods of severe market stress (the **Orderly Market Requirement**);

   (ii) to have in place appropriate arrangements to identify and manage conflicts of interest (the **Conflicts Requirement**); and

   (iii) to ensure that the arrangements and systems referred to at (i)-(ii) above operated within a framework of substantive criteria that were transparent, objective, non-discriminatory and proportionate (the **TONP Requirement**)

9. The existence of these obligations under competition law is supported by parallel obligations the LME was subject to under the applicable financial market regulations including MiFID II and RTS 7.

10. At all material times, up to and including 8 March 2022 and the Nickel Crisis, the Applicants contend that the Defendants were in breach of these requirements. In the claim form, there is extensive reference to and reliance upon the FCA Final Notice dated 19 March 2025 which imposed a penalty of £9,245,900 on the LME for failures to comply with its regulatory obligations, including those derived from MiFID II ("the FCA Decision"). The LME accepted the FCA's findings. The Applicants allege that but for the Defendants' unlawful conduct, the Defendants would have had effective mechanisms to manage volatility during the Nickel Crisis which would have meant that neither the suspension nor cancellation of trades would have been required. In those circumstances, the Applicants allege they would have realised a profit by agreeing to sell a number of nickel futures contracts at prices significantly in excess of their call option strike prices, without their trades being cancelled.

11. The claim form and the Application also refer to the previous judicial review proceedings brought by the Applicants against the LME and LME Clear Limited. This led to two judgments: *R (on the application of Elliott Associates L.P. & Anor) v The London Metal Exchange & LME Clear Ltd* [2023] EWHC 2969 (Admin) and [2024] EWCA Civ 1168. Various witness statements were referred to in these judgments and in open court.

12. The claim form states that, unlike the judicial review proceedings, these proceedings under competition law do not seek to challenge the cancellation itself but rather concern the Defendants' conduct which preceded and led to this decision.

D. LEGAL FRAMEWORK

13. As HKEX is not based within the jurisdiction, the Tribunal's permission is required for service of the claim form on it pursuant to r. 31(2)–(3) of the 2015 Rules. So far as is material to the Application, r. 31(2)–(3) provides as follows:

> "(2) Where the permission of the Tribunal is required for service of the claim form on one or more foreign defendants out of the jurisdiction, the claimant shall make an application for permission verified by a statement of truth setting out—

(a) the address of such foreign defendant or, if not known, in what place that defendant is, or is likely, to be found; and

(b) that the claimant believes that the claim against any such foreign defendant has a reasonable prospect of success; and

(c) if under rule 30(3)(b), the claimant contends that the proceedings are to be treated as taking place in England and Wales, which ground set out in paragraph 3.1 of Practice Direction 6B of the CPR is relied on;

…

(f) any material facts relied on.

(3) Where paragraph (2) applies, the Tribunal shall not give permission for service out of the jurisdiction unless satisfied that the Tribunal is the proper place in which to bring the claim."

14. The Applicants contend that the proceedings are to be treated as taking place in England and Wales for the purpose of r. 18 of the 2015 Rules. In such a case, the Tribunal approaches service out of the jurisdiction on the same basis as the High Court under the CPR: *DSG Retail Ltd v. Mastercard Inc* [2015] CAT 7 at §§17–19.

15. There are numerous cases both in the High Court and the Tribunal dealing with the requirements for service out of the jurisdiction. The principles and relevant test have been helpfully summarised by the Tribunal in *Epic Games v Apple* [2021] CAT 4 (***Epic***), and again in *Which? v Apple* [2024] CAT 70 (***Which***) at §11:

> "(1) There is a serious issue to be tried on the merits of the claim: i.e. that there is a real as opposed to fanciful prospect of success on the claim. This is the same test as would be applied if the claimant were resisting a summary judgment application by the defendant: *AK Investment CJSC v Kyrgyz Mobile Tel Ltd* [2011] UKPC 7 at [71].
>
> (2) There is a good arguable case that the claim falls within one or more of the categories of case, generally referred to as 'gateways', set out in CPR Practice Direction 6B at para. 3.1. For this requirement, 'good arguable case' means that the claimant has the better of the argument on whether the claim comes within the gateway(s) relied upon. Where this depends on an issue of law, the Tribunal would normally decide that issue as opposed to determining whether there is a good arguable case on it: *AK Investment CJSC* at [81]. Insofar as this involves an issue on the facts, the effect of the test is as follows:
>
> > '(i) that the claimant must supply a plausible evidential basis for the application of a relevant jurisdictional gateway; (ii) that if there is an issue of fact about it, or some other reason for doubting whether it applies, the court must take a view on the material available if it can

> reliably do so; but (iii) the nature of the issue and the limitations of the material available at the interlocutory stage may be such that no reliable assessment can be made, in which case there is a good arguable case for the application of the gateway if there is a plausible (albeit contested) evidential basis for it.'

Per Lord Sumption in *Brownlie v Four Seasons Holdings Inc* [2017] UKSC 80 at [7], as approved in *Goldman Sachs International v Novo Banco SA* [2018] UKSC 34 at [9].

(3) In all the circumstances, England is clearly or distinctly the appropriate forum for the trial of the claim and the Tribunal ought to exercise its discretion to permit service of proceedings out of the jurisdiction. This is reflected in rule 31(3) of the 2015 Rules. As regards this requirement, the task of the Tribunal is first, to identify the forum in which the case can be suitably tried for the interests of all the parties and for the ends of justice; and then to determine whether England is clearly or distinctly the appropriate forum: *VTB Capital Plc v Nutritek International Corp* [2012] EWCA Civ 808 at [101]."

16. As noted at §12 of *Which?*, for each of these requirements, the burden of proof is on the applicant.

E. THE TRIBUNAL'S ASSESSMENT

17. The Application contains the information required by r. 31(2)(a)–(c) as well as the material facts relied upon within r. 31(2)(f). I am satisfied that it is likely that the proceedings are to be treated as taking place in England and Wales for the purpose of r. 18 of the 2015 Rules.

(1) Serious issues to be tried on the merits

18. The Applicants contend that they have a real prospect of success because they have a properly arguable case on each of the elements they are required to establish at trial.

(a) Undertaking

19. The Applicants state they have a reasonable prospect of establishing that HKEX and the LME formed a single economic undertaking for the purposes of the Chapter II prohibition.

20. First, they state that the LME is an indirect wholly owned subsidiary of HKEX, which means that there is a presumption that the parent exercises decisive influence over the conduct of its subsidiary and thus there constitutes a single undertaking: see C-97/08P *Akzo Nobel and Others v Commission* ECLI:EU:C:2009:536 at §§60–61. It would be on the Defendants to rebut this presumption.

21. Secondly, they refer to evidence to show HKEX did in fact exercise decisive influence over the LME. This includes evidence from a witness statement of Mr Matthew Chamberlain (CEO of the LME and Member of the HKEX Management Committee) filed in the judicial review proceedings. This states that members of the LME board included representatives nominated by HKEX and that Mr Chamberlain, as the CEO of the LME, reported to the CEO of the HKEX group in addition to the LME board. The claim form also details various members of HKEX's board who were also board members of the LME such as Mr Li and Mr Aguzin, both of whom have served as CEO of HKEX. The Applicants also refer to the Terms of Reference of the LME's board which refer to "Taking account of the strategy of the HKEX Group" and "promot[ing] the success of the company for the benefit of HKEX as the Company's ultimate parent company" subject to continuing to satisfy the LME's regulatory obligations.

22. The Applicants also refer to evidence of communications between LME and HKEX which they say is indicative of HKEX having decisive influence over the LME because these communications were liable to impart awareness to the parent and place it in a position to intervene in a more informed and efficient way: Case T-851/14 *Slovak Telekom, a.s. v European Commission* EU:T:2018:929 §328. For this, the Applicants refer to, in particular, evidence of communications between Mr Chamberlain and the CEO of HKEX, Mr Aguzin, during the Nickel Crisis.

23. As part of their duty of full and frank disclosure, the Applicants refer to and have annexed the response, dated 22 May 2026, from the solicitors acting for HKEX to the letter before action. The response states that HKEX did not

intervene in LME's regulatory and operational affairs and that the LME needed to have operational independence as per its financial regulation obligations.

24. The Applicants refer to HKEX's position that it is not liable under competition law as part of an undertaking with the LME. This is primarily based on two key arguments. First, the conduct concerns the LME's exercise of regulatory functions and therefore was not in the pursuit of an economic activity necessary to be an undertaking within the scope of the Chapter II prohibition. Secondly, the LME benefits from immunity against claims for damages under s. 291 of Financial Services and Markets Act 2000 ("FSMA"). HKEX further states that the liability of a parent cannot exceed the liability of a subsidiary when the parent's liability derives from its alleged exercise of decisive influence over the subsidiary: Case C-597/13: *P Total SA v Commission* EU:C:2015:613 §38.

25. The Applicants state that these objections do not undermine their position that there is a serious issue to be tried. First, the Applicants state that the Defendants' activity of offering exchange trading services is not a core or essential function of the state but rather is an economic activity operated for profit. Second, the Applicants do not accept the argument regarding the application of s. 291 of FSMA as they allege the provision does not provide immunity where there is a failure to properly discharge regulatory functions. Likewise the immunity does not apply where a person acted in bad faith, which the Applicants allege on the basis that the regulatory breaches in question were deliberately and knowingly left uncorrected. Third, the Applicants state that s. 291 does not extend to give immunity to HKEX. The Applicants distinguish the application of *Total SA* and Case C-286/11 P *Commission v Tomkins*, EU:C:2013:29 as neither concerns circumstances where, as a matter of competition law, the subsidiary would be liable, were it not for the fact that it benefitted from statutory immunity.

26. HKEX's arguments cannot be dismissed out of hand, and they raise serious issues to be considered in the proceedings. However, I am satisfied at least at this stage there is a serious issue to be tried regarding whether HKEX and the LME formed a single economic undertaking for the purposes of the Chapter II prohibition. I also note that the issue of whether HKEX held decisive influence over the LME will likely be subject to further factual evidence which would

make it inappropriate to make any definitive determination at this stage. It should be noted that the threshold as to whether there is a serious issue to be tried is low, and the merits of the case, including whether HKEX is liable under competition law as forming part of the same undertaking as the LME, are to be considered further at future stage in the proceedings.

(b) Dominance, abuse and loss

27. As set out above, the Applicants submit that the Defendants held a dominant position in the Exchange Services Market between 3 January 2018 and 8 March 2022. The Applicants submit that the Defendants then abused this dominant position and breached the obligations they were under as per §§8-9, causing loss to the Applicants.

28. From the material before me and the well-known prominence of the LME, I am satisfied there is a serious issue to be tried on dominance in the relevant market, which in any event will be a matter for legal argument and further evidence, including expert evidence, in due course. The contention that the Defendants were dominant in the relevant market seems to have a proper basis and is clearly more than merely arguable.

29. On abuse, however, the claim does appear to be a novel one, at least so far as previous claims brought before the Tribunal are concerned, in categorising failures in systems, procedures and control over a market as amounting to an abuse of a dominant position giving a right to claim damages on the back of action taken by a regulator. The Applicants contend that the reason why the market had become disorderly on 8 March 2022 was the abuse of a dominant position by the Defendants.

30. The Applicants say they rely on the conclusions and facts set out in the FCA Decision which found that the LME's policies, controls and training programme had not sufficiently catered for the risks to market orderliness presented by extreme volatility. The status and admissibility of the findings contained in the FCA Decision will no doubt be an issue that will need to be resolved during the proceedings. For now, the FCA Decision does show that there is a proper basis

for alleging that there were regulatory breaches, even if there may be an issue as to how they may be proved, to the extent that findings remain in dispute for trial.

31. I am cognisant of the Supreme Court's judgment in *Evans v Barclays Bank plc & Ors* [2025] UKSC 48, which amongst other things, confirmed that the general common law rule from *Hollington v Hewthorn & Co Ltd* [1943] KB 587 applies to this Tribunal (§152): see also *Phipson on Evidence* (21st ed., 2026), paras. 43.77-43.79). It will be for the Tribunal to form its own view as to the facts and law. However, in coming to any ultimate conclusion on abuse, it is arguable that a breach of another set of regulations can be a relevant factor in assessing whether the Defendants' conduct also amounted to an abuse of a dominant position: see *Gutmann v Apple Inc and others* [2026] CAT 20 §53 and *Gutmann v First MTR South Western Trains Ltd and others* [2025] CAT 64 §72.

32. I am similarly satisfied there is a serious issue to be tried as to whether the Defendants' conduct caused some loss and damage to the Applicants.

33. In reaching these conclusions on whether there is a serious issue to be tried, I am conscious that the claim will be challenged by the Defendants and these will be hard fought proceedings. Nothing should be read from this ruling as to whether I consider that the claim is more likely than not to succeed at trial. The claim is a plausible one and raises important and factually and legally complex issues, which may not be straightforward.

(c) Abuse of process

34. As a further point pursuant to their duty of full and frank disclosure, the Applicants have set out the Defendants' position that these proceedings amount to an abuse of process as the Applicants are seeking to relitigate issues that have already been heard in the judicial review proceedings as referred to above.

35. In the judicial review proceedings, the Applicants alleged, unsuccessfully, that the LME and LME Clear Limited acted unlawfully in cancelling trades on the

basis that this was: ultra vires; procedurally unfair; a breach of the *Tameside* duty; irrational; and unlawful because the relevant committees had not been consulted: see §§96-101. The Applicants also claimed that there had been a breach of their Convention rights under the Human Rights Act 1998, specifically, their rights under Article 1 of the First Protocol.

36. It seems clear that the factual matrix of these proceedings overlaps with what was at issue in the judicial review proceedings. Likewise, some of the determinations in those proceedings and the arguments run may have some bearing on these proceedings. Looking at the matter overall, however, it is clearly arguable that these proceedings under competition law raise issues materially different from those raised, and could have been raised, in the judicial review proceedings. These proceedings concern whether the cancellation decision could have been avoided altogether had the Defendants complied with their alleged obligations under competition law. For this reason, I am satisfied there is a serious issue to be tried notwithstanding the Defendants' position on abuse of process.

(2) The gateways

37. CPR PD 6B, §3.1 relied upon by the Applicants provides as follows:

> "3.1 The claimant may serve a claim form out of the jurisdiction with the permission of the court under rule 6.36 where:
>
> …
>
> (3) A claim is made against a person ("the defendant") on whom the claim form has been or will be served (otherwise than in reliance on this paragraph) and –
>
> (a) there is between the claimant and the defendant a real issue which it is reasonable for the court to try; and
>
> (b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim.
>
> …
>
> (9) A claim is made in tort where –
>
> (a) damage was sustained, or will be sustained, within the jurisdiction;

> (b) damage which has been or will be sustained results from an act committed, or likely to be committed, within the jurisdiction; or
>
> (c) the claim is governed by the law of England and Wales."

(a) Claims made in tort (§3.1(9))

38. As regards the gateway in §3.1(9)(a) (damage sustained within the jurisdiction), the Tribunal has a UK jurisdiction. "Damage" in this gateway refers to "actionable harm, direct or indirect, caused by the wrongful act alleged": *FS Cairo (Nile Plaza) LLC v. Brownlie* [2021] UKSC 45 at §81. The Applicants' case is that because of the conduct of the Defendants, the Applicants lost profits in respect of contracts that would have been formed under English law and within the jurisdiction of the English courts.

39. As regards §3.1(9)(b) (damage resulting from an act committed within the jurisdiction), the Applicants submit that the Defendants' conduct occurred within the jurisdiction as the contracts traded on the LME were regulated by the UK's FCA.

40. As regards §3.1(9)(c) (claim governed by the law of England and Wales), the Applicants submit that the claim is governed by the law of England and Wales because it is a claim in tort arising out of a restriction of competition affecting the UK market (for the purposes of Article 6(3) of Regulation (EC) No. 864/2007 (Rome II) as retained in domestic law under the Law Applicable to Contractual Obligations and Non Contractual Obligations (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/834)).

41. I am cognisant of the observations of the Supreme Court as per *Okpabi v Royal Dutch Shell plc* [2021] UKSC 3 at §20 and *VTB Capital plc v Nutritek International* [2013] UKSC 5 at §82 on the importance of proportionality in relation to litigating jurisdictional issues. However, I note that the Applicants' submissions on these gateways were rather sparse, amounting to less than a single page of Ward 1, provided no real detail on the specific contracts on which the Applicants base their claim for loss and where the Applicants (whether it be one or both of them) suffered loss.

42. On the limited information before me, I am not satisfied that the 3.1(9)(a) gateway is satisfied as it is unclear where the Applicants' claimed damage was sustained. In the claim form it is alleged that the Applicants would have realised profit by agreeing the sale of a number of nickel futures contracts at prices significantly in excess of their call option strike prices without their trades being cancelled. In the event of an inter partes challenge to the jurisdiction by HKEX, it will be open to the Applicants to produce further evidence on this aspect. As I am satisfied that other gateways are satisfied, it is unnecessary for me to seek further evidence and submissions from the Applicants at this stage.

43. I am satisfied on balance that gateway 3.1(9)(b) is satisfied given that the claim concerns the Defendants' actions in relation to the LME in the UK.

44. I am satisfied that gateway 3.1(9)(c) is also satisfied as the claim is governed by the law of England and Wales, where the LME is based and operates, and the relevant conduct principally occurred in England and Wales, which is where the relevant market was affected.

(b) Necessary or proper party (§3.1(3))

45. The jurisdictional gateway under §3.1(3) is satisfied where: (i) there is a defendant on whom the claim form can be served within the UK (i.e., an "anchor" defendant); (ii) there is a real issue between the applicant and the anchor defendant to be tried on the merits, that is reasonable for the court to try; and (iii) the foreign defendant would be a necessary or proper party to the claim.

46. As to (i), the Application states that the Applicants' intends to serve the LME within the jurisdiction. The LME has now been served and has sought an extension to file its defence, which has been granted until 2 November 2026. As to (ii), the Applicants state there is a real issue between them and the LME for the same reasons as to whether there is a serious issue to be tried on the merits against the Defendants as summarised above.

47. For to the reasons given above, I am satisfied there are real issues to be tried between the Applicants and the LME as the anchor defendant.

48. As to (iii), the determination of whether HKEX is a necessary or proper party to the claim is subject to the test as set out in *Altimo Holdings v Kyrgyz Mobil Tel Ltd* [2012] 1 WLR 1804 at §87:

> "[…] the question whether D2 is a proper party is answered by asking: 'Supposing both parties had been within the jurisdiction would they both have been proper parties to the action?': *Massey v Heynes & Co* (1888) 21 QBD 330 at 338…D2 will be a proper party if the claims against D1 and D2 involve one investigation…and in *Carvill America Inc v Camperdown UK Ltd* [2005] EWCA Civ 645, [2005] 2 Lloyd's Rep 457 , at [48], where Clarke LJ also used, or approved, in this connection the expressions 'closely bound up' and 'a common thread': at [46], [49]."

49. The Applicants make this submission on the basis that, as HKEX is part of the same undertaking as the LME, it is alleged to be jointly and severally liable with the LME. From the material before me, I agree that this provides a basis for finding that HKEX is a necessary or proper party to the proceedings. I also note that the conduct at issue against the Defendants is the same and so would likely entail the same factual inquiries and expert evidence. It would therefore be undesirable to require the Applicants to litigate against the LME in the UK and pursue a claim against HKEX elsewhere.

(3) Proper Forum

50. The Applicants contend that the UK is the proper forum for these proceedings. As stated in *Epic* at §132 as to the factors that may be taken into account in determining the proper forum:

> "The governing approach to determination of whether England is clearly the appropriate forum derives from Lord Goff's classic speech in *The Spiliada* [1987] AC 460. Lord Goff there emphasised that the fundamental consideration is the interests of all the parties and the ends of justice. As numerous judgments have subsequently shown, a range of factors may therefore be taken into account, including (i) the residence or place of business of the parties; (ii) the location of likely witnesses; (iii) the existence of parallel proceedings; (iv) the applicable law (v) the cost and delay; (vi) a legitimate personal or juridical advantage; and (vii) the jurisdictional gateway relied on. See note 6.37.16 in *Civil Procedure 2020* (the 'White Book'). However, this is not an exhaustive list, and the relevance and importance of any factor will vary significantly from one case to another in the 'evaluative or balancing exercise' which the court or tribunal has to carry out: per Lord Neuberger in *VTB Capital* [*Plc v Nutritek International Corp* [2012] EWCA Civ 808] at [97]."

51. I am satisfied that there is good reason why the UK, and specifically the Tribunal sitting in England and Wales, is the forum with which the claim has the most real and substantial connection and is therefore the proper forum for determination of the proceedings. In particular:

(1) The claim concerns allegedly unlawful conduct arising from a breach of a statutory provision in the UK.

(2) Many of the relevant matters of fact occurred in the jurisdiction. The Applicants state that their witnesses are resident in England and Wales and the Applicants reasonably anticipate that the LME's witnesses are also resident in the jurisdiction. While some witnesses may not be based in the jurisdiction, including for HKEX, HKEX is an entity that should not face difficulty in participating in English proceedings. In that regard, I note it already has the benefit of being represented by solicitors based in the jurisdiction.

(3) There are practical advantages in the action being tried in the UK, given the UK has a specialist competition tribunal.

(4) The claim is governed by and concerns breaches of UK competition law, and the Tribunal is best placed to resolve such questions relating to UK law.

(5) The claim will also consider various decisions made in England and Wales, namely the FCA Decision and the two judicial review judgments.

F. CONCLUSION

52. In all the circumstances it is appropriate for the Tribunal to exercise its jurisdiction to permit service of the claim form on HKEX. Accordingly, the Applicants are permitted to serve the claim form out of the jurisdiction at 8/F, Two Exchange Square, 8 Connaught Place, Central, Hong Kong. As the Applicants intend to send the claim form by registered post to this address, they should be able to effect service relatively promptly and are encouraged to do so.

The LME has an extension of time for the filing of its Defence until 2 November 2026 and there may be an issue as to whether it should be granted a further extension of time in the light of the position with HKEX. The Tribunal has yet to list the first CMC in these proceedings and in the normal course this should occur once the defences have been filed.

53. As the Application has been determined *ex parte* on the papers, HKEX may apply to set aside this decision on the basis that the Tribunal does not have jurisdiction, or that such jurisdiction should not be exercised, pursuant to r. 34 of the 2015 Rules. In the event of such a challenge the Tribunal will consider the issues as to jurisdiction afresh.

Hodge Malek KC
Chair

Charles Dhanowa CBE, KC (*Hon*)
Registrar

Date: 22 September 2026