COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

Case No: 1791/5/7/26

Pursuant to Rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the "Tribunal Rules"), the Registrar gives notice of the receipt of a claim for damages (the "Claim") on 4 September 2026, under section 47A of the Competition Act 1998 (the "Act"), by Elliott Associates, L.P. and Elliott International, L.P. (the "Claimants") against (i) The London Metal Exchange (the "LME") and (ii) Hong Kong Exchanges and Clearing Limited (together the "Defendants").

The Claimants are represented by Clifford Chance LLP 10 Upper Bank Street, London, E14 5JJ (Reference: Samantha Ward).

The Claimants claim damages for infringements of section 18 of the Act relating to alleged serious deficiencies in the LME's measures to ensure orderly trading in the nickel futures market during severe market stress and/or to control volatility, and a lack of policies, procedures or a systematic approach regarding the identification and management of conflicts of interest between the LME's own interests and the interests of its members and/or the wider market.

The Claimants are both investment funds managed by Elliott Investment Management, L.P. and its affiliates. The Claimants have substantial expertise in trading derivative products, including nickel futures. The First Claimant is a limited partnership registered under the laws of Delaware. The Second Claimant is a limited partnership registered under the laws of the Cayman Islands.

The LME is a private unlimited company incorporated under the laws of England and Wales. The Claim states that the LME operates a commodities exchange based in London which describes itself as the world centre for the trading of industrial metals. The LME is a recognised investment exchange for the purposes of the Financial Services and Markets Act 2000. The LME is subject to the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995) (the "Recognition Requirements Regulations").

The Second Defendant is a private limited company incorporated in Hong Kong. The Claim states that the Second Defendant describes itself as a leading global operator of exchanges and clearing houses. The Claim states that the Second Defendant is, and has been at all material times, the ultimate owner of the LME and LME Clear Ltd, LME's clearing house and central counterparty ("LME Clear"). The Claim states that the Second Defendant exercised influence and/or control over the LME, including its risk management functions, with the Defendants comprising a single undertaking for the purposes of the Act.

Trading on the LME is governed by the LME's Rules and Regulations. LME Clear is interposed between the parties to every trade, acting as the seller to every buyer, and the buyer to every seller. It thereby guarantees the performance of the contracts arising from each trade. When two parties agree to trade with each other, they agree to take the steps necessary to enter into offsetting contracts with LME Clear. Trading with LME Clear is governed by the LME Clear Limited Rules and Procedures (the "LME Clear Rules"). LME Clear, the Claim states, is exposed to the risk of parties defaulting on both sides of any trade. To manage this risk, the LME Clear Rules require members to deposit margin in respect of every trade to cover a portion of LME Clear's estimated liabilities in the event that the member defaults.

Pending expert evidence, the Claim pleads that there is a market for exchange-trading services for nickel futures readily traded by market participants regardless of domicile (the "Exchange Services Market") which is distinct from markets for exchange-trading services for other derivatives and over-the-counter derivatives trading. The relevant geographic market is at least UK-wide and most likely global in scope. The Claim states that at all material times the Defendants held a dominant position in the Exchange Services Market for nickel futures with a 100% market share.

The Claim further states that the Defendants, as a dominant undertaking, had a special responsibility not to allow their conduct to impair genuine undistorted competition on the UK market. This responsibility included, first, the Orderly Market Requirement, namely that the Defendants had in place adequate, appropriate and effective systems to ensure the resilience of the LME's trading systems, monitor and manage market volatility and prevent disorderly trading during periods of severe market stress. Second, the Conflicts Requirement, that the Defendants had appropriate arrangements to both identify conflicts between their own interests (and those of group companies such as LME Clear) and those of market participants (and between market participants themselves), and to manage such conflicts where they arise. The Conflicts Requirement applied, in particular the Claim states, because LME Clear is necessarily a party to every trade concluded on the LME's trading platform (and thus undertakes the same economic activity that the LME's customers in the Exchange Services Market undertake i.e. trading in nickel futures) while simultaneously having the power to determine the conditions in which that trading may be exercised. Third, the TONP Requirement, namely that the market operates within a framework of substantive criteria that were transparent (and hence published), objective, non-discriminatory and proportionate.

The Claim states that obligations applied to the LME under applicable financial markets regulations support, the existence of the above obligations under competition law. In summary, this includes paragraphs 3 and 4 of schedule 1 to the Recognition Requirements Regulations as amended, which implemented Directive 2014/65/EU ("MiFID II"), and the Commission Delegated Regulation (EU) 2017/584 ("RTS 7"), as retained in domestic law.

The Claim alleges that, at all material times leading up to the market disorder of 8 March 2022 (see further below), the Defendants failed to comply with these obligations, and, subject to disclosure, from 8 April 2021 at the latest, they did so knowingly.

In response to MiFID II, the Claim states, the LME had introduced automatic volatility controls in the form of dynamic and static price bands. However, the LME had a policy that these price bands should not constrain genuine price discovery. Prior to the events of March 2022, the LME did not introduce any daily price limits which would impose absolute constraints on the extent to which the market price could increase or decrease relative to the previous business day's closing price. Furthermore, the Claim states that the LME had an inadequate process for identifying and escalating unusual and/or hazardous market conditions. Accordingly, the Claim states, the LME had no mechanism(s) that would effectively constrain trading during periods of volatility.

In August 2020, the Claim states, the LME engaged an independent advisory firm to review the LME's compliance with MiFID II. Those advisers issued their final report to the LME on 8 April 2021. The Claim states that the report identified a number of gaps in the LME's compliance with MiFID II, including with regard to the identification and management of potential conflicts of interest and significant issues with regard to managing volatility. The Claim alleges that the LME failed to remedy these matters during the relevant period. Instead, the LME continued to offer exchange-trading services despite, as the Claim alleges, knowing it was in breach of its regulatory obligations.

In early March 2022, the Claim states that there was a pronounced rise in the price of (physical) nickel, ostensibly connected to the invasion of Ukraine by Russia and consequent fears of potential nickel supply shortages. The Claim further states that this also had dramatic consequences for nickel futures. On 4 March 2022, the price of 3M nickel futures opened at US $27,080 per tonne and continued to rise in subsequent trading days. On 7 March 2022, the price closed at US $48,078. During this period, LME Clear issued several margin calls at higher levels than had previously been the case before 4 March 2022. The Claim states that three members failed to meet the margin calls that fell due at 9.00 AM on 7 March 2022 and one of them remained in default by the end of that day. Early on 8 March 2022, the LME disabled the price bands for over three hours during severe market stress. The Claim states that this permitted the price of nickel futures to increase much more quickly than would otherwise have been possible. The price of 3M nickel futures rose to a peak of US $101,365 per tonne. Later that day, the LME suspended trading of all nickel contracts and cancelled all nickel trades entered into that day. This included nickel futures contracts sold by the Claimants who had stood to receive gross proceeds of US $728,067,420.

In 2023, the FCA opened an enforcement investigation. On 19 March 2025, the FCA published its decision which, the Claim states, identified that the LME had breached various applicable financial markets regulations, and imposed a penalty of £9,245,900.

The Claimants claim that the Defendants abused their dominant position in the Exchange Services Market by failing to satisfy the Orderly Market Requirement, the Conflicts Requirement and/or the TONP Requirement. Such conduct was not competition on the merits because it breached the Defendants' special responsibility not to allow their conduct to impair genuine undistorted competition on the UK market.

Furthermore, the conduct subjected market participants to trading conditions that were defective, sub-optimal, and unfair (and limited the development of the market to their detriment) in that they did not include protections against either conflicts of interest on the Defendants' part or market disorder that operated within a framework of transparent, objective, non-discriminatory and proportionate criteria.

The Claim states that the Defendants knowingly avoided putting any effective protections in place in order to permit trading to continue in conditions of severe market stress, which, the Claimants infer, the Defendants did so for their own interests in order to reinforce their dominance.

By failing to prevent market disorder, the conduct ultimately necessitated drastic intervention in the nickel market, *viz* the suspension and cancellation decisions. Such intervention, the Claim states, is the antithesis of normal competition on the merits since it involved the suspension, cancellation and unwinding of trades and prevention of further trades.

The Claim further states that the conduct put market participants at risk of such intervention which was inevitably discriminatory in that it necessarily benefitted participants with short nickel positions and LME Clear (which was exposed to the risk of default on all trades on the LME's platform), whilst greatly harming participants that were long nickel (including the Claimants).

The Claim states that the conduct distorted competition on the Exchange Services Market and related markets. because it enabled the LME to avoid any negative reaction from market participants (and the associated costs) of designing and implementing compliant volatility controls, which any new market entrant would be required to have in place in order to be an investment exchange recognised by the FCA.

The Claim states that the conduct and the cancellation of the nickel futures trades on 8 March undermined confidence and created uncertainty in the nickel futures market operated by the LME, in addition to producing significantly discriminatory effects in the market, favouring those holding short positions given that, absent the conduct at issue (and consequent suspension and cancellation decisions) those market participants may have faced severe margin calls, potential forced liquidation of their short positions at a highly adverse price, and significant financial distress.

By reason of the Defendants' unlawful conduct, the Claim states, the Claimants have suffered loss and damage. The Claim states that but for the Defendants' breaches of competition law, The LME's market would have had effective mechanisms to manage volatility. It would not have become disorderly and the suspension and cancellation decisions would not have been taken. The Claimants would therefore 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.

The relief sought in these proceedings is:

(1) Damages;
(2) Compound interest, alternatively simple interest;
(3) Declaratory relief, namely a declaration that the Defendants have breached the prohibition against abuse;
(4) Further or other relief; and
(5) Costs.

Further details concerning the procedures of the Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa CBE, KC (Hon)
Registrar

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