Response to ESMA Discussion Paper on Benchmark Regulation prepared by The Gansk Institute for Market Economy (Instytut Badań nad Gospodarka Rynkową)

Q1, Answer: Yes

Q2, Answer: In the publication process the following are the most important aspects to consider the BMR available to the public: i) value (even published with 48h delay after computation), ii) current methodology, iii) publication on www.

Q3, Answer: IOSCO Principles are sufficient.

Q4, Answer: Agreed. It should be clear that all benchmarks being in use in financial contracts or financial instruments between professional counterparties and natural persons are subject to BMK Regulation.

Q5, Answer: NA

Q6, Answer: Agree

Q7, Answer: Benchmarks other than interest rates should have better defined their importance (critical, significant) and oversight functions for such benchmarks should correlated with their significance.

Q8, Answer: NA

Q9, Answer: No. An administrator should create one oversight function (Benchmark committee/council) for a given benchmark or family of benchmarks. Oversight process should be specific for each benchmark (benchmark family), however personnel used for each process could be shared, provided they have appropriate knowledge, experience or expertise.

Q10, Answer: No. If critical benchmarks are within the same benchmark family oversight function (process) could be the same. If an administrator operates for instance FX benchmark and interest rate benchmarks oversight functions must be separated and well-adjusted to benchmarks’ specifics.

Q11, Answer: Yes. An administrator should establish separated oversight functions, unless it is benchmark family.

Q12 Answer: Only in the case in which a contributor is not end user (beneficiary) of the benchmark.

Q13, Answer: NA

Q14, Answer: Yes

Q15, Answer: Yes. Oversight function in justified cases could be comprised of individuals external to the administrator.

Q16, Answer: Members of oversight committees should have ensured time budget necessary to properly fulfill oversight duties. They also should have a necessary background/experience/expertise. Remuneration of oversight comities is to be transparently reported.

Q17, Answer: Members of oversight committees should have a necessary background/experience/expertise for specific benchmark/benchmark family.

Q18, Answer: Agree
Q19, Answer: Superfluous data are: (i) Names and role of the individuals responsible for submissions and approval, (ii) communication between staff in the panel entities units that deal in benchmark-referenced instruments or derivatives and internal or external third parties involved in the benchmark’s contribution process, (iii) Substantial exposures of individual traders or trading desks to benchmark related instruments, as well as changes therein. Additional data which could be important for significant and critical benchmarks an administrator is to keep record of benchmark usage reported by counterparties that use such benchmark (or are financial intermediaries). It could enable better monitoring conflict of interest.

Q20, Answer: The frequency of input data transmission is to be defined by administrator (or by the oversight body)

Q21, Answer: In principal agree. Oversight body could advise/extend appropriateness concept if necessary.

Q22, Answer: NA

Q23, Answer: Only periodically (e.g. semiannually)

Q24, Answer: It is OK.

Q25, Answer: Agree

Q26, Answer: Training should be mandatory, however frequency and scope should be advised by an administrator.

Q27, Answer: Agree

Q28, Answer: NA

Q29, Answer: Agree

Q30, Answer: Yes

Q31, Answer: Yes

Q32, Answer: Yes

Q33, Answer: Yes

Q34, Answer: Yes

Q35, Answer: Yes

Q36, Answer: Input data cannot be disclosed to the public, but only for auditors. Formula is to be fully transparent –intellectual property rights in this respect should not enable limited transparency.

Q37, Answer: Agree

Q38, Answer: Agree

Q39, Answer: Yes

Q40, Answer: Agree
Q41, Answer: Agree
Q42, Answer: Agree
Q43, Answer: Single code of conduct for benchmark or benchmark family.
Q44, Answer: Yes, but once drafted a code of conduct modification is to be introduced with relevant consultations and market sounding.
Q45, Answer: Agree
Q46, Answer: Yes,
Q47, Answer: NA
Q48, Answer: NA
Q49, Answer: NA
Q50, Answer: Agree. The process of exclusion is to be audited and approved by the administrator.
Q51, Answer: Yes
Q52, Answer: Yes. It should be at least in the benchmark methodology
Q53, Answer: Yes, if an administrator or benchmark oversight body agrees.
Q54, Answer: Yes
Q55, Answer: Yes
Q56, Answer: NA
Q57, Answer: Yes
Q58, Answer: Agree
Q59, Answer: NA
Q60, Answer: NA
Q61, Answer: Yes
Q62, Answer: Yes
Q63, Answer: Agree
Q64, Answer: Full support for incentives for contributors related to data/input quality.
Q65, Answer: NA
Q66, Answer: NA
Q67, Answer: NA
Q68, Answer: Agree
Q69, Answer: Agree
Q70, Answer: NA
Q71, Answer: NA
Q72, Answer: NA
Q73, Answer: NA
Q74, Answer: Yes
Q75, Answer: Agree
Q76, Answer: NA
Q77, Answer: NA

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