**Title 5 Non- discriminatory access to and licensing of benchmarks**

**Article 20 [Article 37(4)(a) of Regulation 600/2014]**

**Principles guiding the information to be made available to CCPs and trading venues**

 1.    In accordance with Article 37(1) of Regulation (EU) No 600/2014, trading venues and CCPs shall only obtain information that is necessary for trading and clearing purposes. The information required shall depend on a number of factors, including the relevant financial instrument being traded or cleared and the type of benchmark that the financial instrument references.

2.    A trading venue or CCP may request from the person with proprietary rights to a benchmark the information mentioned in Article 21 and shall also explain to that person the reasons why such information is required for trading or clearing purposes. These requests shall be reasonable and not unduly burdensome . Reasonable costs associated with providing the information shall be permitted to be reimbursed as part of the licensing arrangements between the requestor and the person with proprietary rights to the benchmark.

3.    A person with proprietary rights to a benchmark shall supply relevant information requested by a trading venue or CCP promptly, either on a one-off basis, including amendments to previously supplied information, or on a continuous or periodic basis, depending on the type of information concerned

4.    A person with proprietary rights to a benchmark shall provide information to a trading venue on the same basis as it provides to other trading venues, unless a different basis can be objectively justified.

5.    A person with proprietary rights to a benchmark shall provide information to a CCP on the same basis as it provides it to other CCPs, unless a different basis can be objectively justified.

6.    A person with proprietary rights to a benchmark shall provide all relevant information to any other licensees on the same timescales unless a different timescale can be objectively justified.

7.    Where a person with proprietary rights to a benchmark does not have access to relevant information mentioned in Article 21 or cannot pass such information on to a trading venue or CCP due to non-discriminatory restrictions or other confidentiality restrictions or contractual limitations included in the contract with the third party or parties who own that information or other legal obligations, the trading venue or CCP may request such information directly from the third party or parties who own it. Where appropriate and if known and there is not a confidentiality obligation which restricts the person with proprietary rights to a benchmark from providing the information to the trading venue or CCP, the person with proprietary rights to a benchmark shall notify the trading venue or CCP of whom it may contact at the third party or parties to be able to access the relevant information.

8.    If a person with proprietary rights to a benchmark can show that certain information is reasonably available publicly or through other commercial means to a trading venue or CCP, , it does not need to supply that information through licensing to that trading venue or CCP.

**Article 21**

**The information through licensing to be made available to CCPs and trading venues**

1. Subject to the provisions in Article 20, relevant information in respect of price and data feeds shall at least include:

(a) a feed of the relevant benchmark’s values;

(b) prompt notification of any inaccuracy in the calculation of a benchmark’s value and of the updated or corrected benchmark value that would be provided to other data clients who receive information about that benchmark;

(c) historical benchmark values consistent with those given to other data clients where the person with proprietary rights to the benchmark maintains such information.

2. In respect of composition and methodology, the information provided shall allow the trading venue or CCP to understand how the benchmark is calculated, the actual methodology used to calculate the benchmark’s values. Subject to the provisions in Article 20 and unless such information is not needed for trading or clearing purposes, relevant information in respect of composition and methodology shall at least include:

(a) definitions of key terms unless they are self-evident from the methodology;

(b) a general description of the criteria and procedures used to calculate the benchmark, including input selection, the mix of inputs used in the benchmark, the procedures and practices that control the exercise of discretion, any priority given to certain data types, , any models or extrapolation methods, and the methodology used to determine the benchmark’s value;

(c) the procedures used to calculate the benchmark in periods of significant market stress or disruption, or when inputs are unavailable, such as when inputs are suspended or closed;

(d) the hours during which the benchmark is calculated.

(e) the procedures which govern the benchmarks rebalancing methodology;

(f) the procedures for dealing with error reports, including when a revision of a benchmark would be applicable;

(g) information regarding the frequency for any internal reviews and approvals of the composition and methodology. Where applicable, information regarding the procedures and frequency for external review of the composition and methodology;

(h) the circumstances and procedures under which the person with proprietary rights to that benchmark will consult with the trading venue or CCP amongst others who use the benchmark, as appropriate;

;

(j) procedures for making changes to the composition and methodology and details of any change thereof.

3, A person with proprietary rights to a benchmark who has publicly demonstrated alignment to the IOSCO Principles for Financial Benchmarks or the IOSCO Principles for the Oil Price Reporting Agencies does not need to supply the information in Article 21 (2) through licensing to trading venues or CCPs

**Article 22**

**Other conditions under which access must be granted**

1. A person with proprietary rights to a benchmark shall set the conditions in paragraph 5 for licensing agreements pursuant to Article 37 of Regulation (EU) No 600/2014 and shall make those conditions freely available to any trading venue or CCP upon request.

. 4. The conditions shall be granted on fair, reasonable and non-discriminatory terms. A person with proprietary rights to a benchmark shall set comparable rights and obligations for the licensees within the same category, including where the person with proprietary rights to a benchmark and a trading venue or CCP are connected by close links. The person with proprietary rights to a benchmark shall ensure that the conditions for licensing agreements and the specific content of the agreement do not contain any provision that restricts or creates obstacles for the establishment or future extension of the access arrangement to other entities or mandate the use of a designated CCP, where derivatives constructed on the benchmark would have to be mandatorily cleared, or in any other way hinder the rights under Articles 35 and 36 of Regulation (EU) 600/2014.

5.

6. The person with proprietary rights to a benchmark shall make available to all licensees within the same category any additions or modifications to the conditions in paragraph 5 agreed with a licensee within that category.

**7. The licensing agreement shall require** that the person with proprietary rights to a benchmark and the trading venue or CCP put in place adequate policies, procedures and systems, including in relation to relevant conditions referred to in paragraph 5, to ensure as far as reasonably possible that sufficient information is available to allow the venue to trade and clear instruments based on the licensed benchmark

**Article 23**

**Standards guiding how a benchmark may be proven to be new**

1.    A person with proprietary rights to a benchmark shall establish whether a benchmark is new in accordance with the criteria specified in Article 37(2)(a) and (b) of Regulation (EU) No 600/2014 taking into account the factors specified in paragraph 2.

2. A benchmark is less likely to be new if the following factors apply:

 (a) Contracts based on the newer benchmark are capable of being netted or substantially offset with contracts based on the relevant existing benchmark by a CCP. and

(b) The regions and industry sectors covered by the relevant benchmarks are the same,  or relatively similar and

(c) The values of the relevant benchmarks are highly correlated and

(d) The composition of the relevant benchmarks, having regard to the number of constituents, the actual constituents, their values and their weightings, are the same, or relatively similar and

(e)The methodologies of each relevant benchmark are the same, or relatively similar.

3. Each assessment shall also take into account any other factors specific to the types of benchmarks being assessed, as appropriate.

4. Any adaptation to an existing benchmark, whether material or not, shall not constitute a new benchmark.

5. Each newly released series of a benchmark shall not constitute a new benchmark.

6. A benchmark will be considered new if it is being used as the underlying interest in a categorically different financial product (e.g., an option as opposed to a future).