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| 15 February 2016 |

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| Reply form for the Discussion Paper on Benchmarks Regulation |
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| Date: 15 February 2016 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in Consultation Paper on the European Single Electronic Format (ESEF), published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type < ESMA\_QUESTION\_DP\_BMR\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_DP\_BMR \_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA\_DP\_BMR \_XXXX\_REPLYFORM or

ESMA\_DP\_BMR \_XXXX\_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

***Deadline***

Responses must reach us by 31 March 2016**.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_ DP\_BMR\_1>

Euronext is the primary exchange in the Eurozone with more than 1 300 listed issuers worth more than €3.0 trillion in market capitalization as of end December 2015, an unmatched blue chip franchise consisting of 25 issuers in the EURO STOXX 50® benchmark and a strong diverse domestic and international client base.

Euronext operates regulated and transparent equity and derivatives markets. Its total product offering includes Equities, Exchange Traded Funds, Warrants & Certificates, Bonds, Derivatives, Commodities and Indices. Euronext also leverages its expertise in running markets by providing technology and managed services to third parties. Euronext operates regulated markets, Alternext and the Free Market; in addition it offers EnterNext, which facilitates SMEs’ access to capital markets.

Euronext welcomes the opportunity to respond to the Discussion Paper published by ESMA. First, Euronext would like to make a couple of general comments.

**General comments**

While we welcome the finalisation of the Benchmark Regulation (the “BMR”) as it will create more legal certainty as well as a level playing field in terms of application, Euronext has some remaining concerns about some of the definitions in the BMR and their scope. In this regard, we consider it important to point out these concerns as they could stand in the way of legal clarity and certainty.

**The definition of a ‘single price’ in relation to the exemption from scope**

Article 2 of the BMR clarifies the scope in the sense that the provision of single reference prices for any financial instrument is exempted from scope. We understand this to refer to the practice of market operators operating trading venues and – to that effect – operating an order book which publishes many individual prices continuously throughout the day, that being one of the core functions of a market operator. We assume that this function and therewith any individual price Euronext publishes or makes available in the context of its function of a market operator, is not in scope of the BMR.

**The definition of ‘regulated-data benchmark’ – third country data**

A regulated-data benchmark is defined as being sourced *“entirely and directly”* from a number of sources, including a trading venue as defined in MiFID II. The MiFID II definition of a ‘trading venue’ referenced in Article 3(1)(20)(a) is – however - not limited to EU trading venues, meaning that the current text of Level I does not provide for a separate treatment of 3rd country data providers. We believe that the applicable conditions should be explicitly indicated as global indices that use data from non-EU trading venues are regulated as regulated data benchmarks. Furthermore, in the IOSCO Assessment Methodology a Regulated Market or Exchange is defined as: *“A market or exchange that is regulated and / or supervised by a Regulatory Authority.”*

**The definition of ‘regulated-data benchmark’ – data vendors**

The Level 1 text also does not specify the treatment of data sourced from third party vendors. There is currently legal uncertainty as to how vendors should be considered with regard to the *“entirely and directly”* provision. Benchmark administrators usually do not take direct feeds from trading venues but use data vendors in order to access regulated data, both from trading venues in the EU as well as outside of the EU. We would assume that even if this data is not sourced via a direct link from the trading venue, but via a third party like a data vendor that forwards this data unaltered to other parties, this would still match the intent of the definition.

<ESMA\_COMMENT\_ DP\_BMR\_1>

1. Do you agree that an index’s characteristic of being “made available to the public” should be defined in an open manner, possibly reflecting the current channels and modalities of publication of existing benchmarks, in order not to unduly restrict the number of benchmarks in scope?

<ESMA\_QUESTION\_DP\_BMR\_1>

We certainly understand the challenges of capturing the different types and structures of benchmarks in the European Union and the flexibility regulators wish to have in order to be able to place those benchmarks that were originally intended to be in scope.

Having said that, striking a balance will be important. Prior to market application it should be clear, for any type of institution, whether or not their business is covered by regulation: some degree of legal certainty beforehand matters. Bearing this in mind, we believe having ESMA give clear guidance on what they believe to be the scope (for instance by way of a further Q&A) could be helpful, while at the same time giving ESMA flexibility by way of the proposed language.

<ESMA\_QUESTION\_DP\_BMR\_1>

1. Do you have any proposals on which aspects of the publication process of an index should be considered in order for it to be deemed as having made the index available to the public, for the purpose of the BMR?

<ESMA\_QUESTION\_DP\_BMR\_2>

In line with our remark under Q 1, Euronext would recommend some clarity in advance on how this notion will be applied by ESMA. In that respect, and in order to positively verify the scope of the definition in question, there could be a set of variables against which ESMA could evaluate if an index has been made available to the public. These could include:

1. the technical means: information is made available via a data feed accessible to multiple or a single party, a market data vendor, published directly on the internet, provided to a selected group of parties (members or customers) of a trading platform or SI, information provided per e-mail or mail, etc.
2. the commercial means: is a fee being charged, are there specific user groups.

<ESMA\_QUESTION\_DP\_BMR\_2>

1. Do you agree with ESMA’s proposal to align the administering the arrangements for determining a benchmark with the IOSCO principle on the overall responsibility of the administrator? Which other characteristics/activities would you regard as covered by Article 3(1) point 3(a)?

<ESMA\_QUESTION\_DP\_BMR\_3>

Euronext does support alignment with the IOSCO principles as we feel that this promotes global supervisory convergence in a field that is very much a global business. We do feel, however, that – although certain elements are mentioned as being key in defining the responsibility of the administrator – it should also be made clear that some of these elements can be outsourced to other parties while the overall responsibility lies with the administrator. It should be clear that the responsibility for regulatory compliance lies with one party, even if certain activities are outsourced.

<ESMA\_QUESTION\_DP\_BMR\_3>

1. Do you agree with ESMA’s proposal for a definition of issuance of a financial instrument? Are there additional aspects that this definition should cover?

<ESMA\_QUESTION\_DP\_BMR\_4>

We understand the difficulty of the text at Level I possibly limiting the scope. In terms of ‘issuance’ we feel it is important to understand that exchanges (market operators) do not ’issue’ financial instruments. Market operators create contract terms for exchange traded derivatives such as options and futures. These contract terms are consequently published and traded. We do not believe that this practice should be covered by the term ‘issuance’ given the potential for possible knock on effects of other regulations that do not – and should not - apply to this practice. There should be no unintended consequences of applying a term that – in reality – does not fit the practice of market operators creating exchange traded derivative contracts.

<ESMA\_QUESTION\_DP\_BMR\_4>

1. Do you think that the business activities of market operators and CCPs in connection with possible creation of financial instruments for trading could fall under the specification of “issuance of a financial instrument which references an index or a combination of indices”? If not, which element of the “use of benchmark” definition could cover these business activities?

<ESMA\_QUESTION\_DP\_BMR\_5>

We understand the difficulty of the text at Level I possibly limiting the scope. In terms of ‘issuance’ we feel it is important to understand that exchanges (market operators) do not ’issue’ financial instruments. Market operators create contract terms for exchange traded derivatives such as options and futures. These contract terms are consequently published and traded. We do not believe that this practice should be covered by the term ‘issuance’ given the potential for possible knock on effects of other regulations that do not – and should not - apply to this practice. There should be no unintended consequences of applying a term that – in reality – does not fit the practice of market operators creating exchange traded derivative contracts.

<ESMA\_QUESTION\_DP\_BMR\_5>

1. Do you agree with the proposed list of appropriate governance arrangements for the oversight function? Would you propose any additional structure or changes to the proposed structures?

<ESMA\_QUESTION\_DP\_BMR\_6>

**One general oversight committee**

We agree with ESMA’s assumption in para 38 that it should be possible to create an oversight function for families of benchmarks. From a market operator’s perspective, the most efficient approach would be a single oversight committee for all indices that are based on regulated data. In any case, we would support one general oversight committee as suggested by ESMA in para 43. This would be beneficial to the oversight committee as it would have a complete view of that type of business and would be cost efficient and effective for the market operator and ultimate users of the benchmarks.

**Conflicts of interest**

In terms of the different structures of the oversight committee, we would like to stress that a benchmark business that sits within a market operator, operating trading venues, is not exposed to conflicts of interests. The market operator has no financial interest in the direction of the index or any interest in the actual assets being traded. In that sense, a conflict should not arise.

**Suggestions for oversight functions**

In the first two examples of para 43 ESMA provides for two potential compositions in case conflicts arise within the administrator.

In this context we would like to point out that benchmark administrators that provide benchmarks which are not prone to manipulation due to the fact that they are based on regulated data and which are provided by a neutral administrator not trading or holding instruments referenced to such a benchmark, should not be required to comply with strict oversight function requirements as there are no conflicts.

Moreover, the introduction of an external oversight function including users of those benchmarks could dilute the requirements of the regulation as it would introduce conflicts of interest to an existing structure. This is particularly challenging for widely used benchmarks.

**Role of the oversight function**

In para 37 ESMA indicates that the main purpose of an oversight function is to ensure there is an effective challenge to the board or management of the benchmark administrator. We do not agree with this view as we see the role of the oversight function as one where it ensures that benchmarks are being determined and calculated in a proper and reliable way. That does not necessarily mean that management needs to be “challenged”.

<ESMA\_QUESTION\_DP\_BMR\_6>

1. Do you believe these proposals sufficiently address the needs of all types of benchmarks and administrators? If not, what characteristics do such benchmarks have that would need to be addressed in the proposals?

<ESMA\_QUESTION\_DP\_BMR\_7>

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<ESMA\_QUESTION\_DP\_BMR\_7>

1. To the extent that you provide benchmarks, do you have in place a pre-existing committee, introduced through other EU legislation, or otherwise, which could satisfy the requirements of an oversight function under Article 5a? Please describe the structure of the committee and the reasons for establishing it.

<ESMA\_QUESTION\_DP\_BMR\_8>

Euronext already has a supervisory committee in place for its existing blue chip indices (CAC40, AEX, BEL20 and PSI20).

Euronext is the compiler of these indices and is therefore responsible for their day-to-day management and for decisions regarding the interpretation of these rules.

In parallel, a Scientific Committee acts as independent supervisor of the indices and is responsible for monitoring the selection of constituents for the index and for ensuring that the index offers a reliable and representative view of the market. All supervisory decisions are published without delay following the decision (after market close).

<ESMA\_QUESTION\_DP\_BMR\_8>

1. Do you agree that an administrator could establish one oversight function for all the benchmarks it provides? Do you think it is appropriate for an administrator to have multiple oversight functions where it provides benchmarks that have different methodologies, users or seek to measure very different markets or economic realities?

<ESMA\_QUESTION\_DP\_BMR\_9>

Yes, Euronext agrees with ESMA’s assumption in para 38 that it should be possible to create an oversight function for families of benchmarks. From the perspective of a benchmark administrator that provides regulated-data benchmarks, the most efficient outcome would be to have a single oversight committee for all indices that are based on regulated data. In that respect we would also support allowing for one general oversight committee as suggested by ESMA in para 43. This would be beneficial to the oversight committee as it would have a complete view of that type of business. It would also be cost efficient and effective for the benchmark administrator and the ultimate users of the benchmarks.

<ESMA\_QUESTION\_DP\_BMR\_9>

1. If an administrator provides more than one critical benchmark, do you support the approach of one oversight function exercising oversight over all the critical benchmarks? Do you think it is necessary for an oversight function to have sub-functions, to account for the different needs of different types of benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_10>

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<ESMA\_QUESTION\_DP\_BMR\_10>

1. Where an administrator provides critical benchmarks and significant or non-significant benchmarks, do you think it should establish different oversight functions depending on the nature, scale and complexity of the critical benchmarks versus the significant or non-significant benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_11>

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<ESMA\_QUESTION\_DP\_BMR\_11>

1. In which cases would you agree that contributors should be prevented from participating in oversight committees?

<ESMA\_QUESTION\_DP\_BMR\_12>

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<ESMA\_QUESTION\_DP\_BMR\_12>

1. Do you foresee additional costs to your business or, if you are not an administrator, to the business of others resulting from the establishment of multiple oversight functions in connection with the different businesses performed and/or the different nature, scale and type of benchmarks provided? Please describe the nature, and where possible provide estimates, of these costs.

<ESMA\_QUESTION\_DP\_BMR\_13>

Regulatory compliance with new regulations usually leads to additional cost factors for the industry.

In order to ensure that the BMR does not increase costs along the value chain which outweigh the benefits, the regulation and its application needs to provide for sufficient flexibility and proportionality for those being regulated, while not creating significant unnecessary costs for the industry.

<ESMA\_QUESTION\_DP\_BMR\_13>

1. Do you agree that, in all cases, an oversight function should not be responsible for overseeing the business decisions of the management body?

<ESMA\_QUESTION\_DP\_BMR\_14>

Yes, Euronext agrees with that assumption. Discretionary decisions for the determination of a benchmark should be made by those responsible for managing the benchmark on a daily basis .

<ESMA\_QUESTION\_DP\_BMR\_14>

1. Do you support the proposed positioning of the oversight function of an administrator? If not, please explain your reasons why this positioning may not be appropriate.

<ESMA\_QUESTION\_DP\_BMR\_15>

Yes, Euronext supports this to the extent that it should not be an extra approval process but should rather take the form of a group of experts that can discuss the general sense of direction, providing support, and counsel and advice where appropriate. We do agree that this committee could sit within the organisational structure of the administrator, however we do not agree that the oversight committee is there to challenge the board or management.

<ESMA\_QUESTION\_DP\_BMR\_15>

1. Do you have any additional comments with regard to the procedures for the oversight function as well as the composition and positioning of the oversight function within an administrator’s organisation?

<ESMA\_QUESTION\_DP\_BMR\_16>

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<ESMA\_QUESTION\_DP\_BMR\_16>

1. Do you agree with the proposed list of elements of procedures required for all oversight functions? Should different procedures be employed for different types of benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_17>

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<ESMA\_QUESTION\_DP\_BMR\_17>

1. Do you agree with the proposed treatment of conflicts of interest arising from the composition of an oversight function? Have you identified any additional conflicts which ESMA should consider in drafting the RTS?

<ESMA\_QUESTION\_DP\_BMR\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_18>

1. Do you agree with the list of records to be kept by the administrator for input data verification? If not, please specify which information is superfluous / which additional information is needed and why.

<ESMA\_QUESTION\_DP\_BMR\_19>

Euronext wishes to point out that it is unlikely a benchmark administrator would have access to “substantial exposures of individual traders or trading desks to benchmark related instruments, as well as changes therein”. We assume that this requirement only relates to the extent an administrator is aware of this and, where it is not, that this requirement would not apply.

In terms of currency converters, it is important to highlight that in the context of regulated data being used for the determination of regulated-data benchmarks, it should be accepted that in addressing currency differences, currency converters will not be considered as input data, (but rather as part of the methodology). To do otherwise would result in pure regulated-data benchmarks no longer being able to meet the definition of regulated–data benchmarks since the data needs to be sourced entirely from trading venues.

<ESMA\_QUESTION\_DP\_BMR\_19>

1. Do you agree that, for the information to be transmitted to the administrator in view of ensuring the verifiability of input data, weekly transmission is sufficient? Would you instead consider it appropriate to leave the frequency of transmission to be defined by the administrator (i.e. in the code of conduct)?

<ESMA\_QUESTION\_DP\_BMR\_20>

Euronext agrees with the ESMA view expressed in the Open Hearing that record keeping is important in order to verify market abuse. Furthermore, we agree with ESMA that the cost for record keeping of data has generally declined over recent years. However, we still see differences, both with regards to the logic of duplicating the storing of data where Regulated Markets are already required to do so, as well as the fact that the vast amounts of regulated data which would need to be stored by a benchmark administrator using such data would be significantly higher than the low volume panel data for benchmark contributor data.

In this context Euronext believes it is important to recognise that the accuracy of data generated by regulated trading venues is already ensured by the respective trading venues themselves which are, furthermore, subject to regulatory requirements under MAR and MiFID II as well. A requirement to additionally verify data would be disproportionate and result in overregulation.

ESMA moreover states that, for regulated data used as input data, the requirements for verifiability shall be proportionate and, in this context, are to be understood as checking the provenance as well as the transmission of the input data - para 68. Euronext agrees with ESMA’s understanding.

ESMA’s proposal on the verifiability of regulated data could be substantiated as follows:

* Checking the provenance of the input data could be undertaken via the initial selection of the regulated trading venue (including a third country venue) as the relevant data source for the benchmark in question, and the continuous use of this data source for input data.
* Checking the transmission of the input data could encompass verifying the technical availability of the data during the calculation process (e.g. checking for streaming data during the transmission process). In general, in order to ensure the feasibility of the verification requirement in the face of huge amounts of processed data (e.g. millions of data per second over a complete day compared to panel based input data which potentially contains 100 data points at one point per day maximum), it should, in principle, be sufficient to verify randomly selected data points instead of requiring the verification of each respective input data which is being used. The frequency of transmission should be defined by the administrator in the code of conduct.

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<ESMA\_QUESTION\_DP\_BMR\_20>

1. Do you agree with the concept of appropriateness as elaborated in this section?

<ESMA\_QUESTION\_DP\_BMR\_21>

Euronext believes that appropriateness is very much linked to the (commercial) goal of the benchmark. Benchmarks that are designed to reflect the trading in certain underlying values that are traded on a specific venue should be regarded as appropriate if indeed that underlying data from that venue alone is used.

Euronext also agrees with ESMA on the concept of appropriateness as regards the close links between methodology and data chosen by the benchmark administrator.

We agree as well that there is no need to verify the appropriateness of input data on a daily basis as this would be disproportionate. For a proportionate application of the BMR, further verification of appropriateness through the benchmark administrator, other than through regular methodological reviews, should not be required for regulated data benchmarks.

<ESMA\_QUESTION\_DP\_BMR\_21>

1. Do you see any other checks an administrator could use to verify the appropriateness of input data?

<ESMA\_QUESTION\_DP\_BMR\_22>

Do, we do not.

<ESMA\_QUESTION\_DP\_BMR\_22>

1. Would you consider it useful that the administrator maintains records of the analyses performed to evaluate the appropriateness of input data?

<ESMA\_QUESTION\_DP\_BMR\_23>

No, we do not believe it to be necessary to maintain records. Regular reviews of the methodology by the benchmark provider as well as reliable input data provide for all necessary information already. Data sourced from a regulated market within, as well as outside of the EU, provides for the most reliable input data and as such should not be subject to unnecessary and disproportionate regulatory burden.

<ESMA\_QUESTION\_DP\_BMR\_23>

1. Do you see other possible measures to ensure verifiability of input data?

<ESMA\_QUESTION\_DP\_BMR\_24>

No, we do not.

<ESMA\_QUESTION\_DP\_BMR\_24>

1. Do you agree with the identification of the concepts and underpinning activities of evaluation, validation and verifiability, as used in this section?

<ESMA\_QUESTION\_DP\_BMR\_25>

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<ESMA\_QUESTION\_DP\_BMR\_25>

1. Do you agree that all staff involved in input data submission should undergo training, but that such training should be more elaborate / should be repeated more frequently where it concerns front office staff contributing to benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_26>

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<ESMA\_QUESTION\_DP\_BMR\_26>

1. Do you agree to the three lines of defence-principle as an ideal type of internal oversight architecture?

<ESMA\_QUESTION\_DP\_BMR\_27>

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<ESMA\_QUESTION\_DP\_BMR\_27>

1. Do you identify other elements that could improve oversight at contributor level?

<ESMA\_QUESTION\_DP\_BMR\_28>

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<ESMA\_QUESTION\_DP\_BMR\_28>

1. Do you agree with the list of elements contained in a conflict of interest policy? If not, please state which elements should be added / which elements you consider superfluous and why.

<ESMA\_QUESTION\_DP\_BMR\_29>

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<ESMA\_QUESTION\_DP\_BMR\_29>

1. Do you agree that where expert judgement is relied on and/or discretion is used additional appropriate measures to ensure verifiability of input data should be imposed? If not, please specify examples and reasons why you disagree.

<ESMA\_QUESTION\_DP\_BMR\_30>

Euronext supports the proportionate approach as regards verifiability requirements outlined by ESMA. In this context we explicitly support ESMA’s view that the verifiability of regulated data should be limited to checking the provenance as well as the transmission of the data.

Euronext considers this to be both sufficient as well as proportionate, taking into consideration the differences as regards the significant amount of data processed (which then would have to be stored) as well as the nature of the data. The accuracy of data generated by regulated trading venues is already ensured by the respective trading venues themselves which are, moreover, regulated under MAR and MiFID II.

In more detail ESMA’s proposal on the verifiability of regulated data could be substantiated as follows:

* Checking the provenance of the input data could be achieved by the initial selection of the regulated trading venue (including a third country venue) as the relevant data source for the benchmark in question, and the continuous use of this data source for input data.
* Checking the transmission of the input data could encompass checking the technical availability of the data during the calculation process (e.g. for streaming data during the transmission process). In general, in order to ensure the feasibility of the verification requirement in the face of huge amounts of processed data (e.g. millions of data per second over a complete day compared to panel based input data which potentially contains 100 data points at one point per day maximum), it should in principle be sufficient to verify randomly selected data points instead of requiring the verification of each respective input data which is being used.

<ESMA\_QUESTION\_DP\_BMR\_30>

1. Do you agree to the list of criteria that can justify differentiation? If not, please specify why you disagree.

<ESMA\_QUESTION\_DP\_BMR\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_31>

1. Do you agree to the list of elements that are amenable to proportional implementation? If not, please specify why you disagree.

<ESMA\_QUESTION\_DP\_BMR\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_32>

1. Do you agree to the list of elements that are not amenable to proportional implementation? If not, please specify why you disagree.

<ESMA\_QUESTION\_DP\_BMR\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_33>

1. Do you consider the proposed list of key elements sufficiently granular “*to allow users to understand how a benchmark is provided and to assess its representativeness, its relevance to particular users and its appropriateness as a reference for financial instruments and contracts*”?

<ESMA\_QUESTION\_DP\_BMR\_34>

We agree that the definition including the objective of the benchmark should be an integral part of the methodology, including its objective and the currency in which it is being determined. Furthermore, Euronext agrees that the definition of a benchmark should be as precise as possible in order to avoid subjective interpretations to the extent possible. The more rules based an index is, the less vulnerable to manipulation it should be.

Euronext agrees with ESMA’s view, in line with the BMR, that IP rights of benchmark producers should be protected, especially when input data is broadly available as in the case of regulated data benchmarks. In this context, and for the avoidance of doubt, we would strongly appreciate further ESMA clarification of BMR Recital 24 within the future RTS.

We support ESMA’s view in para 120 that transparency should be sufficient to allow interested parties to understand the suitability of the benchmark for their purposes including any limitations or risks of the methodology.

Overall, Euronext considers the list of elements as suggested by ESMA to be sufficiently granular and that they should therefore be included in the methodology where applicable. However, there might be indices where not all key elements would have to be included, e.g. there would be no contributor in the case of regulated data benchmarks.

<ESMA\_QUESTION\_DP\_BMR\_34>

1. Beyond the list of key elements, could you identify other elements of benchmark methodology that should be disclosed? If yes, please explain the reason why these elements should be disclosed.

<ESMA\_QUESTION\_DP\_BMR\_35>

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<ESMA\_QUESTION\_DP\_BMR\_35>

1. Do you agree that the proposed key elements must be disclosed *to the public* (linked to Article 3, para 1, subpara 1, point (a))? If not, please specify why not.

<ESMA\_QUESTION\_DP\_BMR\_36>

Euronext agrees that index methodologies should be transparent and made available to the public, with the caveats on BMR Recital 24 taken into account and (see Q34) as well as being strongly linked to the definition of “public” in line with Article 3(1)(1)(a).

<ESMA\_QUESTION\_DP\_BMR\_36>

1. Do you agree with ESMA’s proposal about the information to be made public concerning the internal review of the methodology? Please suggest any other information you consider useful to disclose on the topic.

<ESMA\_QUESTION\_DP\_BMR\_37>

Euronext agrees generally with the proposal of ESMA as regards the information to be made public within a methodology.

Euronext also agrees with ESMA’s view that it should be the administrator’s responsibility to determine the frequency of any internal review.

Furthermore, Euronext agrees with the close link between the methodology and governance. For the avoidance of doubt we would like to point out that members of the governance board should not be directly involved in the day to day work of reviewing and adapting benchmark methodologies but should rather be responsible for ensuring sign-off of the respective methodology reviews and adaptions. This should include, moreover, scenarios where an administrator outsources the benchmark administration to another benchmark administrator, while retaining the governance and responsibility via an Administrator Oversight Committee.

As regards the publication of persons either as part of the Governance process or as Contributors, we would recommend, due to data protection reasons, to publicly display held positions within firms rather than the personal name of those members within those functions. Names could be disclosed on inquiry in cases a justified reason is being provided.

<ESMA\_QUESTION\_DP\_BMR\_37>

1. Do you agree with the above proposals to specify the information to be provided to benchmark users and, more in general, stakeholders regarding material changes in benchmark methodology?

<ESMA\_QUESTION\_DP\_BMR\_38>

Euronext agrees on most points with ESMA.

Contrary to Art 7(b)(1)(iii) and Art 7(b)(2)(a), Euronext would like to point out that there may be (black swan) events which might require swift action of the benchmark administrator as regards methodology adaption which might require a deviation from standard processes with a consequent impact on the timing of information. Euronext fully agrees that this should occur in extraordinary circumstances only, however, these should be taken into account by ESMA as well. In our view ESMA should clarify that in exceptional circumstances the usual timeline of consulting customers / stakeholders may be reduced if required but we do not think ESMA should define an explicit and exhaustive list of unforeseen circumstances.

ESMA suggests in para 132 to communicate the rationale behind the material change in such detail that it allows the stakeholders to assess whether a material change improves its representativeness, relevance and appropriateness. This could be difficult to provide, depending on the expected granularity pursued by ESMA. The benchmark administrator is not always aware of the ways in which its benchmark is being used. Therefore, should ESMA include such a requirement, it should take the form of a recommendation only and be proportionate.]

<ESMA\_QUESTION\_DP\_BMR\_38>

1. Do you agree, in particular, on the opportunity that also the replies received in response to the consultation are made available to the public, where allowed by respondents?

<ESMA\_QUESTION\_DP\_BMR\_39>

Euronext would welcome a view from ESMA on the question as to whether a consultation may be conducted within an external stakeholder/consultative working group. In such a case, confirmation that the replies would initially only be shared within this group before being communicated to the broader market would be helpful.

Furthermore, regardless of which sort of consultation would be considered as adequate by ESMA, we would deem it sensible for the benchmark administrator to provide for a summary of the received feedback to the public given that listing all consultation feedback could increase costs across the board.

<ESMA\_QUESTION\_DP\_BMR\_39>

1. Do you agree that the publication requirements for key elements of methodology apply regardless of benchmark type? If not, please state which type of benchmark would be exempt / which elements of methodology would be exempt and why.

<ESMA\_QUESTION\_DP\_BMR\_40>

Euronext agrees that the requirements should be universal, irrespective of the benchmark type as long as this is in line with BMR Recital 24 and the potential IP rights of the benchmark administrator are being protected.

<ESMA\_QUESTION\_DP\_BMR\_40>

1. Do you agree that the publication requirements for the internal review of methodology apply regardless of benchmark type? If not, please state which information regarding the internal review could be differentiated and according to which characteristic of the benchmark or of its input data or of its methodology.

<ESMA\_QUESTION\_DP\_BMR\_41>

Euronext agrees that the requirements should be universal, irrespective of the benchmark type.

<ESMA\_QUESTION\_DP\_BMR\_41>

1. Do you agree that, in the requirements regarding the procedure for material change, the proportionality built into the Level 1 text covers all needs for proportional application?

<ESMA\_QUESTION\_DP\_BMR\_42>

Euronext agrees that the proportionality is sufficient

<ESMA\_QUESTION\_DP\_BMR\_42>

1. Do you agree that a benchmark administrator could have a standard code for all types of benchmarks? If not, should there be separate codes depending on whether a benchmark is critical, significant or non-significant? Please take into account your answer to this question when responding to all subsequent questions.

<ESMA\_QUESTION\_DP\_BMR\_43>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_43>

1. Do you believe that an administrator should be mandated to tailor a code of conduct, depending on the market or economic reality it seeks to measure and/or the methodology applied for the determination of the benchmark? Please explain your answer using examples of different categories or sectors of benchmarks, where applicable.

<ESMA\_QUESTION\_DP\_BMR\_44>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_44>

1. Do you agree with the above requirements for a contributor’s contribution process? Is there anything else that should be included?

<ESMA\_QUESTION\_DP\_BMR\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_45>

1. Do you agree that the details of the code of conduct to be specified by ESMA may still allow administrators to tailor the details of their codes of conduct with respect to the specific benchmarks provided?

<ESMA\_QUESTION\_DP\_BMR\_46>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_46>

1. Do you agree that such information should be required from contributors under the code of conduct? Should any additional information be requested?

<ESMA\_QUESTION\_DP\_BMR\_47>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_47>

1. Are their ways in which contributors may manage possible conflicts of interest at the level of the submitters? Should those conflicts, where managed, be disclosed to the administrator?

<ESMA\_QUESTION\_DP\_BMR\_48>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_48>

1. Do you foresee any obstacles to the administrator’s ability to evaluate the authorisation of any submitters to contribute input data on behalf of a contributor?

<ESMA\_QUESTION\_DP\_BMR\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_49>

1. Do you agree that a contributor’s contribution process should foresee clear rules for the exclusion of data sources? Should any other information be supplied to administrators to allow them to ensure contributors have provided all relevant input data?

<ESMA\_QUESTION\_DP\_BMR\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_50>

1. Do you think that the listed procedures for submitting input data are comprehensive? If not, what is missing?

<ESMA\_QUESTION\_DP\_BMR\_51>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_51>

1. Do you agree that rules are necessary to provide consistency of contributors’ behaviour over the time? Should this be set out in the code of conduct or in the benchmark methodology, or both?

<ESMA\_QUESTION\_DP\_BMR\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_52>

1. Should policies, in addition to those set out in the methodology, be in place at the level of the contributors, regarding the use of discretion in providing input data?

<ESMA\_QUESTION\_DP\_BMR\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_53>

1. Do you agree with the list of checks for validation purposes? What other methods could be included?

<ESMA\_QUESTION\_DP\_BMR\_54>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_54>

1. Do you agree with the minimum information requirement for record keeping? If not would you propose additional/alternative information?

<ESMA\_QUESTION\_DP\_BMR\_55>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_55>

1. Do you support the recording of the use of expert judgement and of discretion? Should administrators require the same records for all types of benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_56>

1. Do you agree that an administrator could require contributors to have in place a documented escalation process to report suspicious transactions?

<ESMA\_QUESTION\_DP\_BMR\_57>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_57>

1. Do you agree with the list of policies, procedures and controls that would allow the identification and management of conflicts of interest? Should other requirements be included?

<ESMA\_QUESTION\_DP\_BMR\_58>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_58>

1. Do you have any additional comments with regard to the contents of a code of conduct in accordance with Article 9(2)?

<ESMA\_QUESTION\_DP\_BMR\_59>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_59>

1. Do you agree with the above list of requirements? Do you think that those requirements are appropriate for all benchmarks? If not what do you think should be the criteria we should use?

<ESMA\_QUESTION\_DP\_BMR\_60>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_60>

1. Do you agree that information regarding breaches to the BMR or to Code of Conduct should also be made available to the Benchmark Administrator?

<ESMA\_QUESTION\_DP\_BMR\_61>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_61>

1. Do you think that the external audit covering benchmark activities, where available, should also be made available, on request, to the Benchmark Administrator?

<ESMA\_QUESTION\_DP\_BMR\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_62>

1. Do you agree with the proposed criteria for the specific elements of systems and controls as listed in Article 11(2)(a) to (c)? If not, what should be alternative criteria to substantiate these elements?

<ESMA\_QUESTION\_DP\_BMR\_63>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_63>

1. Do you agree that the submitters should not be remunerated for the level of their contribution but could be remunerated for the quality of input and their ability to manage the conflicts of interest instead?

<ESMA\_QUESTION\_DP\_BMR\_64>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_64>

1. What would be a reasonable delay for signing-off on the contribution? What are the reasons that would justify a delay in the sign off?

<ESMA\_QUESTION\_DP\_BMR\_65>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_65>

1. Is the mentioned delay an element that may be established by the administrator in line with the applicable methodology and in consideration of the underlying, of the type of input data and of supervised contributors?

<ESMA\_QUESTION\_DP\_BMR\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_66>

1. In case of a contribution made through an automated process what should be the adequate level of seniority for signing-off?

<ESMA\_QUESTION\_DP\_BMR\_67>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_67>

1. Do you agree with the above policies? Are there any other policies that should be in place at contributor’s level when expert judgement is used?

<ESMA\_QUESTION\_DP\_BMR\_68>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_68>

1. Do you agree with this approach? If so, what do you think are the main distinctions – amid the identified detailed measures that a supervised contributor will be required to put in place - that it is possible to introduce to cater for the different types, characteristics of benchmarks and of supervised contributors?

<ESMA\_QUESTION\_DP\_BMR\_69>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_69>

1. Do you foresee additional costs to your business or, if you are not a supervised contributor, to the business of others resulting from the implementation of any of the listed requirements? Please describe the nature, and where possible provide estimates, of these costs.

<ESMA\_QUESTION\_DP\_BMR\_70>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_70>

1. Could the approach proposed, i.e. the use of the field total issued nominal amount in the context of MiFIR / MAR reference data, be used for the assessment of the “nominal amount” under BMR Article 13(1)(i) for bonds, other forms of securitised debt and money-market instruments? If not, please suggest alternative approaches

<ESMA\_QUESTION\_DP\_BMR\_71>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_71>

1. Are you aware of any shares in companies, other securities equivalent to shares in companies, partnerships or other entities, depositary receipts in respect of shares, emission allowances for which a benchmark is used as a reference?

<ESMA\_QUESTION\_DP\_BMR\_72>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_72>

1. Do you have any suggestion for defining the assessment of the nominal amount of these financial instruments when they refer to a benchmark?

<ESMA\_QUESTION\_DP\_BMR\_73>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_73>

1. Do you agree with ESMA proposal in relation to the value of units in collective investment undertakings? If not, please explain why

<ESMA\_QUESTION\_DP\_BMR\_74>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_74>

1. Do you agree with the approach of using the notional amount, as used and defined in the EMIR reporting regime, for the assessment of notional amount of derivatives under BMR Article 13(1)(i)? If not, please suggest alternative approaches.

<ESMA\_QUESTION\_DP\_BMR\_75>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_75>

1. Which are your views on the two options proposed to assess the net asset value of investment funds? Should you have a preference for an alternative option, please provide details and explain the reasons for your preference.

<ESMA\_QUESTION\_DP\_BMR\_76>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_76>

1. Which are your views on the two approaches proposed to assess the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of an investment fund referencing a benchmark within a combination of benchmarks? Please provide details and explain the reasons for your preference. Do you think there are other possible approaches? If yes, please explain.

<ESMA\_QUESTION\_DP\_BMR\_77>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_77>

1. Do you agree with the ‘relative impact’ approach, i.e. define one or more value and “ratios” for each of the five areas (markets integrity; or financial stability; or consumers; or the real economy; or the financing of households and corporations) that need to be assessed according to Article 13(1)(c), subparagraph (iii)? If not, please elaborate on other options that you consider more suitable.

<ESMA\_QUESTION\_DP\_BMR\_78>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_78>

1. What kind of other objective grounds could be used to assess the potential impact of the discontinuity or unreliability of the benchmark besides the ones mentioned above (e.g. GDP, consumer credit agreement etc.)?

<ESMA\_QUESTION\_DP\_BMR\_79>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_79>

1. Do you agree with ESMA’s approach to further define the above criteria? Particularly, do you think that ESMA should develop more concrete guidance for the possible rejection of the NCA under Article 14c para 2? Do you believe that NCAs should take into consideration additional elements in their assessment?

<ESMA\_QUESTION\_DP\_BMR\_80>

Euronext generally agrees with the approach to clarify and define the criteria of the assessment by national Competent Authorities. ESMA should develop clear guidance in relation to the acceptance and rejection under Article 14(c)(2).

Euronext agrees with ESMA’s statements that most of the relevant Articles referred to in this section (Art 5(2), 5(3c)(c)(d)(e), 7(3a)(b) and 9(2)) would not apply to most benchmark providers which purely base their indices on regulated data. However, there is no explicit statement of this in the legal text. In this context we would like to encourage ESMA to introduce wording in its RTS referring to clear guidance / criteria on the basis of which the NCA should decide. This would also limit different interpretations at national level across the EU.

(a) Vulnerability of a benchmark

The input data underpinning the use of regulated data – be it transaction data or in very few circumstances firm bids/offers - is not prone to being manipulated by the benchmark provider or any other stakeholder. We need to point out that firm bid/offers of a regulated market should have a similar quality as the transactions concluded on those markets. Benchmarks based on regulated data thus should be considered to be nearly riskless in this regard. This should be the case for EU as well as non-EU regulated markets.

Even in cases where a benchmark provider is not only providing benchmarks but also other services, this is not in all cases a clear indication of a potential vulnerability to the benchmark.

Therefore, ESMA should not only consider different functions of a firm providing benchmarks and other services, but should consider the interest for potential manipulation (e.g. holding positions).

Euronext would only consider the nature of benchmark when looking for potential historical cases of manipulation. In any case the nature of the benchmark should be complemented with the nature of the provider (e.g. being neutral in contrast to holding positions referencing the benchmark in question). We agree, however, that the absence of any evidence as regards the nature of the benchmark in question in general should be considered as a positive sign for the decision making process.

(b) Nature of the input data

Euronext agrees with ESMA’s comments in para 231. Euronext also agrees with ESMA’s point 232 as long as the wording “the administrator is itself engaged in the market the benchmark is intended to represent” is clarified as “is holding positions in financial instruments referencing the benchmark in question”. The reference to being engaged is too vague and does not provide for clear guidance.

(c) Level of conflict of interest

Euronext would like to encourage ESMA to clarify what “participates in the market” means. As pointed out above, Euronext considers this as “holding positions in financial instruments referencing the benchmark in question”.

(d) Degree of discretion of the administrator

Euronext agrees with ESMA’s analysis that depending on the quality of input data, the discretion of the benchmark provider is reduced as there is no need and no incentive to calculate or augment the input data. In this context we would like to point out that besides transaction data, firm bids/offers from regulated markets should be considered as reliable input data in the sense of regulated data. We would expect NCAs to not require additional application of the above mentioned articles in cases of use of regulated data.

(e) Impact of the benchmarks on markets

The calculation of thresholds as defined in Level 1 provides for significant challenges. We deem those thresholds to provide for a critical part of the BMR as it is not yet clear on which data basis, to which rules and in line with which verification measures those thresholds will be generated.

(f) Importance of the benchmark to financial stability

See responses to (e)

(g) Nature, scale and complexity of the provision of the benchmark

Euronext appreciates ESMA’s list of criteria when it comes to the complexity of the provision of a benchmark. We would like to add that complexity should be considered as relative depending on the experience the provider may have. The same applies for the digestion of vast amounts of data. In case a provider is an expert on the activities in question, this should be counted as a positive signal he is able to conduct complex processes. As a result we agree that the complexity of a service should take into consideration the nature of the provider.

(h) Value of financial instruments and financial contracts that reference the benchmark

Euronext agrees with ESMA on the close link with point (e).

(i) Administrators size, organizational form and/or structure

Euronext agrees with most of ESMA’s comments made in para 246 and 247. However, we still deem it necessary that where an index becomes a benchmark against which investors’ money is being referenced or validated, there needs to be a high level of reliability once front office submissions / panels are being used for data generation. Therefore, and especially in case of a large firm providing the front office data, Article 7(3a)(b) should be applied.

<ESMA\_QUESTION\_DP\_BMR\_80>

1. Do you think that the fields identified for the template are sufficient for the competent authority and the stakeholders to form an opinion on the representativeness, reliability and integrity of a benchmark, notwithstanding the non-application of some material requirements? Could you suggest additional fields?

<ESMA\_QUESTION\_DP\_BMR\_81>

Euronext supports ESMA’s view in para 250 that these compliance statements can be given for families of benchmarks, where appropriate.

In addition, we would like to suggest that ESMA should allow for discretion in order to enable administrators to use as much content as possible from their IOSCO compliance statements when making a statement for the BMR.

We would like to ask if ESMA has considered the burdens for a non-significant benchmark to be subject to the same compliance statement as a significant benchmark?

According to Article 14(c)(6) and 14(d)(2), administrators of significant and non-significant benchmarks respectively may decide not to comply with a number of governance requirements following a “comply or explain approach”, i.e. the administrators need to explain why non-compliance is appropriate in a compliance statement, for which ESMA is empowered to develop a template. Given that most benchmark administrators already issue compliance statements as regards the IOSCO Principles - which are often externally certified -, ESMA could leave room for discretion in order to allow administrators to use as much content as possible from their IOSCO compliance statements.

It should be clear how the respective administrator should complete the statements and how it can offer enough information to the NCA if it has chosen to “explain” rather than “comply”; it should also be clear what additional information can be requested by the NCA to ensure compliance with the BMR.

<ESMA\_QUESTION\_DP\_BMR\_81>

1. Do you agree with the suggested minimum aspects for defining the market or economic reality measured by the benchmark?

<ESMA\_QUESTION\_DP\_BMR\_82>

Euronext would like to point out that in many commodity markets – also if their Benchmarks are Regulated Data Benchmarks - there is a low level of transparency on the market size. Many market players in many commodity markets do not publish transaction volume as they tend to be active on the markets exclusively for hedging purposes.

<ESMA\_QUESTION\_DP\_BMR\_82>

1. Do you think the circumstances under which a benchmark determination may become unreliable can be sufficiently described by the suggested aspects?

<ESMA\_QUESTION\_DP\_BMR\_83>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_83>

1. Do you agree with the minimum information on the exercise of discretion to be included in the benchmark statement?

<ESMA\_QUESTION\_DP\_BMR\_84>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_84>

1. Are there any further precise minimum contents for a benchmark statement that should apply to each benchmark beyond those stated in Art. 15(2) points (a) to (g) BMR?

<ESMA\_QUESTION\_DP\_BMR\_85>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_85>

1. Do you agree that a concise description of the additional requirements including references, if any, would be sufficient for the information purposes of the benchmark statement for interest rate benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_86>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_86>

1. Do you agree that the statement for commodity benchmarks should be delimited as described? Otherwise, what other information would be essential in your opinion?

<ESMA\_QUESTION\_DP\_BMR\_87>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_87>

1. Do you agree with ESMA's approach not to include further material requirements for the content of benchmark statements regarding regulated-data benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_88>

Euronext fully agrees with ESMA´s approach regarding the benchmark statement for regulated-data benchmarks. In particular exchanges are already very closely supervised by the respective competent authority.

<ESMA\_QUESTION\_DP\_BMR\_88>

1. Do you agree with the suggested additional content required for statements regarding critical benchmarks? If not, please precise why and indicate what alternative or additional information you consider appropriate in case a benchmark qualifies as critical.

<ESMA\_QUESTION\_DP\_BMR\_89>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_89>

1. Do you agree with the suggested additional requirements for significant benchmarks? Which of the three options proposed you prefer, and why?

<ESMA\_QUESTION\_DP\_BMR\_90>

Referring to para 279 we opt for Option 1 as Option 2 and 3 do not deliver additional information and content but pose more burdens to the administrators of non-significant benchmarks.

<ESMA\_QUESTION\_DP\_BMR\_90>

1. Do you agree with the suggested additional requirements for non-significant benchmarks? If not, please explain why and indicate what alternative or additional information you consider appropriate in case a benchmark is non-significant.

<ESMA\_QUESTION\_DP\_BMR\_91>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_91>

1. Are there any further contents for a benchmark statement that should apply to the various classes of benchmarks identified in this chapter?

<ESMA\_QUESTION\_DP\_BMR\_92>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_92>

1. Do you agree with the approach outlined above regarding information of a general nature and financial information? Do you see any particular cases, such as certain types of providers, for which these requirements need to be adapted?

<ESMA\_QUESTION\_DP\_BMR\_93>

Disclosure of financial information is not justified by level 1 – except for critical / systemically relevant benchmarks. Therefore a full disclosure of financial information does not seem proportionate

<ESMA\_QUESTION\_DP\_BMR\_93>

1. Do you agree with ESMA’s approach to the above points? Do you believe that any specific cases exist, related either to the type of provider or the type of conflict of interest, that require specific information to be provided in addition to what initially identified by ESMA?

<ESMA\_QUESTION\_DP\_BMR\_94>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_94>

1. Do you agree with the proposals outlined for the above points? Do you see any areas requiring particular attention or adaptation?

<ESMA\_QUESTION\_DP\_BMR\_95>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_95>

1. Can you suggest other specific situations for which it is important to identify the information elements to be provided in the authorisation application?

<ESMA\_QUESTION\_DP\_BMR\_96>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_96>

1. Do you agree with the proposed approach towards registration? How should the information requirements for registration deviate from the requirements for authorisation?

<ESMA\_QUESTION\_DP\_BMR\_97>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_97>

1. Do you believe there are any specific types of supervised entities which would require special treatment within the registration regime? If yes, which ones and why?

<ESMA\_QUESTION\_DP\_BMR\_98>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_98>

1. Do you have any suggestions on which information should be included in the application for the recognition of a third country administrator?

<ESMA\_QUESTION\_DP\_BMR\_99>

Euronext considers that the RTS should provide clarity, in line with the Level 1 text, as to which circumstances benchmarks based on exchange data from outside the EU would be considered regulated-data benchmarks, enabling the administrator to subsequently benefit from the exemptions specified in Article 12a. To prevent market disruption and a decline of transparent investment vehicles allowing investors to benefit from the development of growth markets beyond the EU, data sourced from 3rd country trading venues subject to an equivalent regulation to MiFID should be considered regulated data.

As to the form and the content of the application for recognition, clear guidance is needed on issues which are critical for market access, like the involvement of the “legal representative” in the oversight function, the content of audit reports etc. It should be acknowledged that the involvement of the representative in the oversight function can be achieved by different means, i.e. that the level of involvement of the representative in the oversight function may depend on the circumstance of the case at hand.

In order to ensure legal certainty, clear guidance is needed as regards the information 3rd country admin-istrators must submit to their Member State of reference in order to claim the exemptions subsequent to the classification to a specific benchmark category. In order to reflect established market practices and ensure the competitiveness of benchmark administrators in a global industry, cost related reasons as well as joint ventures with strategic partners in markets outside the EU should be acknowledged as objective reasons for an endorsement.]

<ESMA\_QUESTION\_DP\_BMR\_99>

1. Do you agree with the general approach proposed by ESMA for the presentation of the information required in Article 21a(6) of the BMR?

<ESMA\_QUESTION\_DP\_BMR\_100>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_100>

1. For each of the three above mentioned elements, please provide your views on what should be the measures to determine the conditions whether there is an ‘objective reason’ for the endorsement of a third country benchmark.

<ESMA\_QUESTION\_DP\_BMR\_101>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_101>

1. Do you consider that there are any other elements that could be taken into consideration to substantiate the ‘objective reason’ for the provision and endorsement for use in the Union of a third country benchmark or family of benchmarks?

<ESMA\_QUESTION\_DP\_BMR\_102>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_102>

1. Do you agree that in the situations identified above by ESMA the cessation or the changing of an existing benchmark to conform with the requirements of this Regulation could reasonably result in a force majeure event, frustrate or otherwise breach the terms of any financial contract or financial instrument which references a benchmark? If not, please explain the reasons why.

<ESMA\_QUESTION\_DP\_BMR\_103>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_103>

1. Which other circumstances could cause the consequences mentioned in Article 39(3) in case existing benchmarks are due to be adapted to the Regulation or to be ceased?

<ESMA\_QUESTION\_DP\_BMR\_104>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_104>

1. Do you agree with the proposed definition of “force majeure event”? If not, please explain the reasons and propose an alternative.

<ESMA\_QUESTION\_DP\_BMR\_105>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_105>

1. Are the two envisaged options (with respect to the term until which a non-compliant benchmark may be used) adequate: i.e. either (i) fix a time limit until when a non-compliant benchmark may be used or (ii) fix a minimum threshold which will trigger the prohibition to further use a non-compliant benchmark in existing financial instruments/financial contracts?

<ESMA\_QUESTION\_DP\_BMR\_106>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_106>

1. Which thresholds would be appropriate to foresee and how might a time limit be fixed? Please detail the reasons behind any suggestion.

<ESMA\_QUESTION\_DP\_BMR\_107>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_107>

1. Is the envisaged identification process of non-compliant benchmarks adequate? Do you have other suggestions?

<ESMA\_QUESTION\_DP\_BMR\_108>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_108>

1. Is the envisaged procedure enabling the competent authority to perform the assessment required by Article 39(3) correct in your view? Please advise what shall be considered in addition.

<ESMA\_QUESTION\_DP\_BMR\_109>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_109>

1. Which information it would be opportune to receive by benchmark providers on the one side and benchmark users that are supervised entities on the other side?

<ESMA\_QUESTION\_DP\_BMR\_110>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_110>

1. Do you agree that the different users of a benchmark that are supervised entities should liaise directly with the competent authority of the administrator and not with the respective competent authorities (if different)?

<ESMA\_QUESTION\_DP\_BMR\_111>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_111>

1. Would it be possible for relevant benchmark providers/users that are supervised entities to provide to the competent authority an estimate of the number and value of financial instruments/contracts referencing to a non-compliant benchmark being affected by the cessation/adaptation of such benchmark?

<ESMA\_QUESTION\_DP\_BMR\_112>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_112>

1. Would it be possible to evaluate how many out of these financial contracts or financial instruments are affected in a manner that the cessation/adaptation of the non-compliant benchmark would result in a force majeure event or frustration of contracts?

<ESMA\_QUESTION\_DP\_BMR\_113>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_DP\_BMR\_113>