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Your ref., Your message of Our ref., person in charge Extension Date

 BSBV 64/Horvath 3141 28 June 2016

**Consultation Paper – Draft technical advice under the Benchmarks Regulation**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the Austrian financial industry, appreciates the possibility to comment on the above cited consultation paper and would like to submit the following position:

Austrian Occupational Pensionsfunds are institutions that are covered by the IORP directive. They operate collective occupational pension schemes, and have to meet the transparency requirements, the governance requirements of the IORP directive and derived national legislation. Austrian Occupational Pensionsfunds therefore do not offer investment products or instruments that can be traded by investors.

Austrian Occupational Pensionsfunds calculate/have given order to calcuate the performance of their pension plan assets for purely internal comparison purposes. These performance calculations cannot and must not be used to construct financial instruments to track or trade occupational pension schemes.

Therefore Austrian Occupational Pensionsfunds want to make sure that they are not regarded as “financial instruments” as stated in IOSCO Principles for Financial Benchmarks of July 2013 (see 2.1. subpoint 3). Hence that they are not covered by the Benchmarks Regulation as long as they only calculate (or give order to calcuate) the performance of the assets of the occupational pension schemes and have not allowed any further use.

Austrian Occupational Pensionsfunds therefore request to add a paragraph as follows:

“Institutions covered by the IORP directive are not covered by the Benchmarks Regulation as long as they only calculate (or give order to calcuate) the performance of the assets of the occupational pension schemes.”

We ask you to give our remarks due consideration.

Yours sincerely,

Dr. Franz Rudorfer

Managing Director

Division Bank and Insurance