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ESMA and EBA Consultation Paper Principles for Benchmarks-Setting Processes in the EU
ESMA/2013/12

Danish Shareholders Association is the organisation representing retail investors in Denmark.

Danish Shareholders Association welcomes this joint EBA – ESMA consultation. The increasing use of reference rates and other benchmarks setting processes makes it very relevant to establish common principles.

Question 1: Definition of the activities of benchmark setting
Do you agree with the definitions provided in this section? Is this list of activities complete and accurate?

Yes, we agree.

Question 2: Principles for benchmarks
Would you consider a set of principles a useful framework for guiding benchmark setting activities until a possible formal regulatory and supervisory framework has been established in the EU?

Yes, the establishment of a set of principles regulating benchmark setting is appropriate, provided the principles are binding and not only "guiding" (soft law). The problems detected at EU-level shows the need for regulation.
Regulation at EU-level should be established.

Question 3: General principles for benchmarks
Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, we agree with the principles in section 3.

It should be ascertained that when real transactions are available benchmarks should be *constructed so that they are transaction-based.*

It is of paramount importance to put in place robust contingency provisions.

Question 4: Principles for firms involved in benchmark data submissions
Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, we agree.

Question 5: Principles for benchmark administrators
Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, we agree.

Question 6: Principles for benchmark calculation agents
Do you agree with the principles cited in this section? Would you add or change any of the principles?

We agree.

Question 7: Principles for benchmark publishers
Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, we agree.

Question 8: Principles for users of benchmarks
Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, we agree. We want to stress the challenge retail investors are facing because they have extreme difficulties if they try to verify the quality of a bencmark. Retail investors are often unable to access the data behind the benchmark or index so it is very difficult to find out wether the process is "clean and fair" or if something is inapproriate.

Question 9: Practical application of the principles
Are there any areas of benchmarks for which the above principles would be inadequate? If so, please provide details on the relevant benchmarks and the reasons of inadequacy.

Not as far as we know.

Question 10: Continuity of benchmarks
Which principles/criteria would you consider necessary to be established for the continuity of benchmarks in case of a change to the framework?

No comments.

Kind regards
Danish Shareholders Association

Klaus Struwe
Political advisor to the Danish Shareholders Association