

## Introductory statement for ECON scrutiny session on Level 2 measures under the EU Benchmarks Regulation

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Dear Chairman, honourable Members of the Parliament,

1. Thank you for giving ESMA the opportunity to participate in the ECON meeting on the Level 2 measures under the Benchmarks Regulation (BMR). The BMR started to apply on 1 January this year, and through a range of activities ESMA has supported its smooth implementation, with the ultimate goal to ensure that the objectives of the co-legislators are achieved. In my contribution I will give you the headlines of these activities.
2. ESMA submitted to the European Commission eleven draft technical standards on the 30 March 2017, covering the following topics:
  - a. procedures, characteristics and positioning of oversight function (*Article 5, RTS*),
  - b. appropriateness and verifiability of input data (*Article 11, RTS*),
  - c. transparency of methodology (*Article 13, RTS*),
  - d. specification of elements of the code of conduct of contributors (*Article 15, RTS*),
  - e. governance and control requirements for supervised contributors (*Article 16, RTS*),
  - f. specification of qualitative criteria for significant benchmarks (*Article 25, RTS*),
  - g. template for compliance statement for significant/non-significant benchmarks (*Articles 25 and 26, ITS*),
  - h. contents of benchmark statement (*Article 27, RTS*),

- i. information to be provided in applications for authorisation and registration (*Article 34, RTS*),
  - j. form and content for the application for recognition by third country administrators (*Article 32, RTS*), and
  - k. minimum content of the cooperation arrangements between ESMA and competent authorities (*Article 47, ITS*).
3. An additional set of technical standards was delivered on 2 June 2017 and this covers the cooperation arrangements with third countries (*Article 30, RTS*).
4. In line with the objectives envisaged in the Level 1 of the BMR, the draft standards submitted by ESMA last year aim at ensuring the accuracy, robustness and integrity of benchmarks and of the benchmark determination process. Where appropriate, ESMA has introduced proportionality, in particular for administrators of significant and non-significant benchmarks, in order to reflect the co-legislators intentions of a less detailed regime applicable to such administrators.
5. The delayed endorsement of the RTS creates significant uncertainties for all parties involved and risks the proper implementation of the BMR. ESMA therefore asks the Commission to give as soon as possible clarity on the endorsement of the RTS.
6. As you may recall, ESMA presented these draft technical standards in a more detailed manner at the ECON scrutiny session on 8 June 2017.
7. Since then, ESMA continued to work on the Benchmarks file in order to contribute to the smooth implementation of the Regulation.
8. In the context of Level 3 measures, ESMA published a consultation paper on the Guidelines applicable only to administrators of non-significant benchmarks on 29 September 2017. These Guidelines aim at defining how administrators of non-significant benchmarks should apply the obligations related to: oversight function, input data, transparency of methodology, governance and control requirements for supervised contributors.
9. The content of the Guidelines is interlinked with the content of the technical standards covering the same four topics. For this reason, ESMA is waiting for the publication of the relevant technical standards in the EU Official Journal before publishing the final version of the Guidelines.
10. As another form of Level 3 measures, ESMA started producing Q&As related to the BMR in July 2017 and has published more than a dozen Q&As ever since. The purpose of these Q&As is to promote common supervisory approaches and practices in the application of the BMR. They also aim at providing investors and other market participants with clarifications on the applicable requirements.

11. The issues covered by the Q&As range from the application of the transitional provisions, to the authorisation / registration process, requirements for supervised contributors and obligations for users of benchmarks.
12. Additionally, on 1 January 2018 ESMA started publishing the “*ESMA register of administrators and 3<sup>rd</sup> country benchmarks*”. The ESMA register is of paramount importance because, after the end of the transitional period, supervised entities in the Union will be able to use a benchmark only if its administrator or the benchmark itself is included in the register.
13. The register, available at the ESMA website, already includes fourteen administrators either authorised or registered under the BMR (*based in France, Germany, UK*), and this number should at least double before the end of this year.
14. Finally, as of today three benchmarks have been included in the list of critical benchmarks by the European Commission: Euribor (August 2016), Eonia (June 2017) and Libor (December 2017). Two colleges of competent authorities have been established: the first one supervises Euribor and Eonia and is chaired by the Belgian FSMA, the second supervises Libor and is chaired by the British FCA. ESMA is an active member in both colleges.
15. ESMA participation in the colleges contributes to the harmonised application of rules under this Regulation and to the convergence of supervisory practices. In this respect, on 2 June 2017 ESMA published a methodological framework to achieve supervisory convergence in the application of the provisions that set out the process of selecting potential candidates for mandatory contributions to critical benchmarks.
16. In relation to interest rate benchmarks, in February 2018 ESMA has set up a “*risk-free rates working group*”, together with the ECB, the European Commission and the Belgian FSMA. This working group is tasked with, among other things, identifying and recommending alternative risk-free rates.
17. The 4th meeting of the working group is taking place today in Frankfurt. The working group has launched a consultation on 21 June 2018 regarding the identification of alternative risk-free rates, seeking views on three potential candidates: two private secured lending rates (*Repofunds rate, GC Pooling*) and the Euro Short-Term Rate (ESTER), an unsecured overnight rate that the ECB will provide in 2019.

I would like to thank you again for inviting ESMA for today’s ECON meeting. I remain at your disposal should you have any questions.