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| 29 September 2017 |

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| Response form for the Consultation Paper on  draft guidelines on non-significant benchmarks |
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| Date: 29 September 2017 |

Responding to this paper

ESMA invites responses to the questions set out throughout this Consultation Paper. Responses are most helpful if they:

1. respond to the question stated;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all responses received by 30 November 2017.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the form “Response form\_Consultation Paper on scrutiny and approval”, available on ESMA’s website alongside the present Consultation Paper ([www.esma.europa.eu](http://www.esma.europa.eu) 🡪 ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).
2. Please do not remove tags of the type <ESMA\_QUESTION\_GBMR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_ GBMR \_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_GBMR\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page 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. 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 not to disclose the response 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 heading ‘Data protection’.

Who should read this Consultation Paper

This Consultation Paper may be of particular interest to administrators of benchmarks, contributors to benchmarks and users of benchmarks as well as to any market participant who is affected by the Benchmarks Regulation.

# General information about respondent

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| Name of the company / organisation | Wholesale Markets Brokers’ Association |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_GBMR\_1>

The Wholesale Markets Brokers’ Association (WMBA) and the London Energy Brokers’ Association (LEBA) (jointly referred to in this document as the ‘WMBA’) are the European industry associations for the wholesale intermediation of ‘Venue Traded’ (MTF and OTF) and ‘Over-the-Counter’ (OTC) markets in financial, energy, commodity and emission markets and their traded derivatives. Our members, in addition to operating some twenty MTFs and eight SEFs, have almost all applied for OTF permissions and shall together offer in excess of 20 OTFs from 2017. They act solely as intermediaries in wholesale financial markets and do not undertake any proprietary trading. As a result, they are mainly classified in the UK as Limited Activity and Limited Licence Firms in respect of the current Financial Conduct Authority classification. The WMBA originated in 1963 from market oversight in central banking, but is an independent industry body.

The WMBA welcomes the opportunity to respond to this ESMA consultation paper because, broadly put, our members arrange the vast majority of wholesale multilateral liquidity both in the EU and around the globe, and are therefore in a critical position to provide both price and volume transparency to those market places. Whilst these may usually be in the form of screen indications and prices, many will be interpolated, some will be indices and others may be used as benchmarks. Subsidiaries of two member firms are applying for permissions under BMR: NEX Data and Thomson Reuters Benchmark Services.

WMBA Limited owned by the WMBA and is authorised and regulated by the Financial Conduct Authority for the activity of administering both ‘SONIA’ and the Repurchase Overnight Index Average ‘RONIA’ categorised as a specified benchmark by the UK Authority. Under the new Benchmark Regulation, RONIA will be categorised as non-significant as it does not meet the critical benchmark threshold detailed in Article 20 nor does it meet the EUR 50 billion significant benchmark threshold detailed in Article 24.

The WMBA welcomes the opportunity to respond to this paper and in summary support the proposals in the draft guidelines as we believe a proportionate approach has been taken without increasing the risks of the integrity and manipulation for non-significant benchmarks. We underline the heterogeneity of the subject matter, and we underscore that in general we support the proposals in the consultation paper, which draw on some of the experiences learnt to date in benchmark supervision.

One general point to underscore is proportionality in respect of governance arrangements [“*procedures and characteristics of the oversight function in Article 1*”]. Whilst RONIA will not be a critical benchmark itself, WMBA Limited and relevant members have already taken the decision to adopt the same practice standards as detailed in the ‘draft technical standards, under the Benchmark Regulation Annex 1.

* 1. *The structure and composition of the oversight function shall be appropriate to the ownership and control structure of the administrator and shall be determined, where appropriate, in accordance with one or more of the non-exhaustive list of governance arrangements in the Annex to this Regulation.*

Appropriate arrangements under (1.1) with independent, non-executive members should be deemed to be adequately independent with (1.2) should we, or our members offer significant or critical benchmarks, or should existing benchmarks become reclassified.

* 1. *Where the benchmark is a critical benchmark, the oversight function shall be carried out by a committee with at least two independent members. Independent members shall be natural persons sitting on the oversight function who are not directly affiliated with the administrator other than through their involvement in the oversight function, and shall be free from conflicts of interest, particularly those resulting from a potential interest in the level of the relevant benchmark.*

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_GBMR\_1>

1. : Do you have any views on the content of the draft guidelines on the oversight function for administrators of non-significant benchmarks? Would you suggest to include any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_GBMR\_1>

The WMBA does support the proportionate approach adopted on a) the composition, b) the characteristics and positioning, and c) the procedures around governance arrangements for the oversight function of administrators of non-significant benchmark.

Furthermore, we agree that administrators should therefore be free to introduce appropriate alternative procedures, provided they achieve the appropriate level of oversight.

<ESMA\_QUESTION\_GBMR\_1>

1. : Do you have any views on the content of the draft guidelines on input data for administrators of non-significant benchmarks? Would you suggest to include any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_GBMR\_2>

The WMBA believes that a proportionate approach has been adopted in the draft guidelines to input data for non-significant benchmarks as these continue to ensure the risks of manipulation is reduced as well as strengthening the reliability of the benchmark.

<ESMA\_QUESTION\_GBMR\_2>

1. : Do you think the proposal to include in the guidelines a requirement for the three levels of control functions appropriate for administrator of non-significant benchmarks?

<ESMA\_QUESTION\_GBMR\_3>

Yes, the WMBA does support the proposal for three levels of control functions as detailed in the guidelines provided that their form and implementation are sufficiently tailored and appropriate for an administrator of non-significant benchmark to remain efficient and effective.

This is particularly relevant where the source of the data is from submitters, contributors and from a dealing room front office environment. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_GBMR\_3>

1. : Do you agree with the content of the draft guidelines on the transparency of the methodology for administrators of non-significant benchmarks? Would you suggest to include any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_GBMR\_4>

Yes, the WMBA does support the content of the draft guidelines on the transparency of the methodology for administrators of non-significant benchmarks, which appear to be conclusive and adequate. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_GBMR\_4>

1. : Do you think the proposal to include in the guidelines a requirement for publishing or making available to the public “a description of specific events that may give rise to an internal review including any mechanism used by the administrator to determine whether the methodology is traceable and verifiable” is appropriate for administrator of non-significant benchmarks?

<ESMA\_QUESTION\_GBMR\_5>

No, the WMBA does support the second leg of the specified elements for internal review. In our view the requirements for a description of specific events is too prescriptive for the benchmark population envisaged. It would better read for an example of such specific events leading to internal review or a requirement to have adequate procedures in place to determine whether the methodology is traceable and verifiable. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_GBMR\_5>

1. : Do you agree with the content of the draft guidelines on governance and control requirements for supervised contributors to non-significant benchmarks? Would you suggest to include any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_GBMR\_6>

The WMBA have no particular comments with regard to the reception of input data from supervised contributors since all our member firms operate trading venues and therefore outside this scope. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_GBMR\_6>

1. : Do you think that the proposal to include in the guidelines a requirement of establishing, where appropriate, a physical separation of submitters from other employees of the supervised contributor is suitable also for supervised contributors to non-significant benchmarks?

<ESMA\_QUESTION\_GBMR\_7>

The WMBA have no particular comments with regard to the reception of input data from supervised contributors since all our member firms operate trading venues and therefore outside this scope. YOUR TEXT HERE

<ESMA\_QUESTION\_GBMR\_7>