

Response Form to the Consultation Paper

Draft Regulatory Technical Standards under the Benchmarks Regulation



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **9 May 2020**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

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 present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_CP_BRTS_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_BRTS_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_BRTS_ABCD_RESPONSEFORM.

5. Upload the form containing your responses, in Word format, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" → "Consultation on MiFIR report on Systematic Internalisers in non-equity instruments").

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically 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 under the heading [Legal Notice](#).

Who should read this paper

This paper may be specifically of interest to administrators of benchmarks, contributors to benchmarks and to any investor dealing with financial instruments and financial contracts whose value is determined by a benchmark or with investment funds whose performances are measured by means of a benchmark.

General information about respondent

Name of the company / organisation	Argus Media Limited
Activity	Other Financial service providers
Are you representing an association?	<input type="checkbox"/>
Country/Region	United Kingdom/Netherlands

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_CP_BRTS_1>

Argus Media Limited is an independent media organisation serving global physical commodity industries. Its main activities comprise publishing market reports containing price assessments, market commentary and news, and business intelligence reports that analyse market and industry trends. Argus Benchmark Administration BV is a separate affiliate of the overall holding company, registered in the Netherlands and authorised by the AFM as a Benchmark Administrator.

Argus Media group has more than 1,000 staff globally and offices in each of the world's principal commodity centres.

Argus' price assessments identify prevailing open-market spot prices in a wide range of specific bulk physical commodity markets. All price assessment activity is conducted strictly according to detailed public methodologies (www.argusmedia.com/methodology) and within a rigorous governance, compliance and controls framework (please see <https://www.argusmedia.com/en/about-us/governance-compliance> for further details).

A small number of Argus' published price assessments have been adopted by subscribers for use as independent benchmarks in commodity derivatives contracts.

ESMA's CP proposes draft regulatory technical standards (RTS) for articles 4, 12 and 14, which as Title II articles, do not relate to Annex II administrators. Argus Media therefore welcomes ESMA's clarification at paragraph 63 in relation to the RTS for article 14:

“Article 19 of the BMR provides for the requirements laid down in Annex II to replace the requirements of Title II BMR.....The specific rule contained in the BMR for commodity benchmarks is due to the sector specific characteristics of such benchmarks which make necessary the application of the specific provisions contained in Annex II instead...”

We are also grateful to ESMA for including a specific exemption for Annex II benchmarks in article 1(b) of the draft RTS for article 14.

As set out below, we request ESMA to provide for similar specific exemptions in its RTS for articles 4 and 12, which as Title II articles, also do not pertain to Annex II administrators. Such exemptions would serve as useful reminders to regulators, administrators, contributors and benchmark users that Annex II administrators are subject to the specific provisions of Annex II instead.

<ESMA_COMMENT_CP_BRTS_1>

Questions

Q1 : Do you agree with the governance arrangements set above? Do you have any additional suggestions? Please specify.

<ESMA_QUESTION_CP_BRTS_1>

Article 4 is in Title II of the BMR. As an administrator subject instead to the Annex II regime, Argus Media has no comments on the proposed governance arrangements. However, we request ESMA to include a specific exemption for Annex II benchmarks similar to that contained in article 1(b) of ESMA's proposed draft RTS for article 14. This would serve as a useful reminder for regulators, administrators, contributors and benchmark users that Annex II administrators are subject to the specific provisions of Annex II instead.

<ESMA_QUESTION_CP_BRTS_1>

Q2 : Do you agree that administrators should have in place a remuneration framework?

<ESMA_QUESTION_CP_BRTS_2>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_2>

Q3 : Do you agree that the same requirements should apply to an administrator that is a natural person? Please elaborate.

<ESMA_QUESTION_CP_BRTS_3>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_3>

Q4 : Do you think that other conditions should be taken into account to ensure that the methodology complies with the requirements of the BMR? Please specify.

<ESMA_QUESTION_CP_BRTS_4>

Article 12 is in Title II of the BMR. As an administrator subject instead to the Annex II regime, Argus Media has no comments on the proposed conditions. However, we request ESMA to include a specific exemption for Annex II benchmarks similar to that already contained in article 1(b) of ESMA's proposed draft RTS for article 14. This would serve as a useful reminder for regulators, administrators, contributors and benchmark users that Annex II administrators are subject to the specific provisions of Annex II instead.

<ESMA_QUESTION_CP_BRTS_4>

Q5 : Do you consider that additional requirements are needed to ensure that the methodology is traceable and verifiable? Please specify.

<ESMA_QUESTION_CP_BRTS_5>

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Q6 : Do you think that the back-testing requirements are appropriate? Please specify.

<ESMA_QUESTION_CP_BRTS_6>

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Q7 : Do you agree with the requirements set out above? Do you have any additional suggestions? Please specify.

<ESMA_QUESTION_CP_BRTS_7>

Article 14 is in Title II of the BMR. As an administrator subject instead to the Annex II regime, Argus Media has no comments on the proposed requirements except to express our support for the proposed exemption for Annex II benchmarks provided for in article 1(b) of ESMA's proposed draft. This will serve as a useful reminder to regulators, administrators, contributors and benchmark users that Annex II administrators are subject to the specific provisions of Annex II instead.

<ESMA_QUESTION_CP_BRTS_7>

Q8 : Do you agree with the systems suggested for the surveillance of market manipulation? In particular, do you think that an automated system should be required only when it appears to be adequate according to the nature, scale and complexity of the benchmark? Please specify.

<ESMA_QUESTION_CP_BRTS_8>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_8>

Q9 : Do you think that other criteria should be considered in relation to the transition of the provision of the critical benchmark to a new administrator? Please specify.

<ESMA_QUESTION_CP_BRTS_9>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_9>

Q10 : Do you think that other criteria should be considered in relation to the cessation of the provision of a critical benchmark? Please specify.

<ESMA_QUESTION_CP_BRTS_10>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_10>

Q11 : Do you agree with the criteria under which competent authorities may require changes to the compliance statement? Please specify

<ESMA_QUESTION_CP_BRTS_11>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP_BRTS_11>

Q12 : Do you agree with the criteria under which competent authorities may require changes to the control framework requirements? Please specify



<ESMA_QUESTION_CP_BRTS_12>
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<ESMA_QUESTION_CP_BRTS_12>