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| Response Form to the Consultation Paper |
| ESMA’s technical advice to the Commission on fees for benchmark administrators under BMR |

**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 **6 November 2020.**

All contributions should be submitted online at [www.esma.europa.eu](http://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\_TAFE\_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\_TAFE\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TAFE\_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 ESMA’s technical advice to the Commission on fees for benchmark administrators under BMR”).

**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](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/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**

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| --- | --- |
| Name of the company / organisation | European Money Markets Institute |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Europe |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_CP\_TAFE\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_CP\_TAFE\_1>

**Questions**

Q1: Do you agree with the approach for determining the recognition fee for third country administrators? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_1>

Q2: Do you think that the recognition fee should include a proportionality element? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_2>

Q3: Do you agree with the approach for determining the authorisation fee for critical benchmarks? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_3>

Q4: Do you think that a different authorisation fee should apply when ESMA has to establish a college of supervisors for the critical benchmark? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_4>

Q5: Do you agree with the proposed first-year fee arrangements? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_5>

Q6: Do you agree with the proposed definition of annual supervisory fee for administrators of a critical benchmark supervised by ESMA? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_6>

As the administrator of the two critical benchmarks EURIBOR® and EONIA®, the European Money Markets Institute (EMMI) welcomes the opportunity to contribute to the definition of the annual supervisory fee for administrators of critical benchmark supervised by ESMA.

EMMI would like to seek confirmation of the applicability of the proposed supervisory fees to an administrator of critical benchmarks regardless the number of benchmarks produced.

This seems to be confirmed by Recital 53 of the EU Regulation 2019/2175 amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority): “[…] To avoid duplication of tasks, administrators of critical benchmarks should be supervised only by ESMA, including any noncritical benchmarks they might administer”.

In the consultation paper, ESMA states that the important role that the administrator of a critical benchmark plays in the EU financial system determines the amount of resources needed for its proper supervision.

National supervisory authorities currently charge a single supervisory fee for the continuous monitoring of the administrators of at least one critical benchmark, regardless the number of benchmarks produced.

The rationale of this approach is that the overall organisational and governance structure, risk governance (including conflicts of interest), internal control structure, oversight and accountability framework put in place to comply with the EU BMR applies to the different benchmarks administered, with some adjustments. Therefore, the supervisory effort required for the oversight of each benchmark, does not result in the multiplication of the cost involved.

<ESMA\_QUESTION\_CP\_TAFE\_6>

Q7: Do you agree with the proposed definition of annual supervisory fee for recognised third country administrators? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_7>

Q8: Do you agree with the proposed approach to determine the applicable turnover? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_8>

Q9: Do you agree with the proposed approach for the supervisory fees related to preparatory work? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_9>

Q10: Do you agree with the proposed timing of payment of recognition and authorisation fees? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_10>

Q11: Do you agree with the proposal to not reimburse administrators in case they decide to withdraw their application for recognition / authorisation before the end of the assessment by ESMA? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_11>

Q12: Do you agree with the proposed timing of payment of annual supervisory fees? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_12>

Q13: Do you agree with the proposed approach defining the reimbursement of costs to a national competent authority in case of delegation of tasks by ESMA under Article 48m of BMR? Please elaborate.

<ESMA\_QUESTION\_CP\_TAFE\_13>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_TAFE\_13>