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| Response Form to the Consultation Paper  |
| Guidelines on methodology to be used in exceptional circumstances and amendment to the guidelines on non-significant benchmarks |

**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 **30 April 2021.**

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\_GMEC\_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\_ GMEC \_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_ GMEC\_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” 🡪 “Guidelines on methodology to be used in exceptional circumstances and amendment to the guidelines on non-significant benchmarks”).

**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**

|  |  |
| --- | --- |
| Name of the company / organisation | London Stock Exchange Group |
| 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\_GMEC\_1>

London Stock Exchange Group (LSEG) includes two FCA regulated benchmark administrators, FTSE International Limited UK (FIL) and Refinitiv Benchmark Services (UK) Limited (RBSL) whose views are reflected in this consultation response.

FTSE Russell (part of LSEG) is a global index provider that provides equity, fixed income and multi asset solutions. FTSE Russell calculates thousands of indices that measure and benchmark markets and asset classes in more than 80 countries, covering 98% of the investable market globally. FTSE Russell is a trading name of FTSE International Limited, Frank Russell Company, FTSE Global Debt Capital Markets Limited (and its subsidiaries FTSE Global Debt Capital Markets Inc. and MTSNext Limited), Mergent, Inc., FTSE Fixed Income LLC, The Yield Book Inc and Beyond Ratings

Refinitiv (part of LSEG) is the administrator of more than 30 key rates, and calculation agent for over 40 important national and regional interest rates and FX rates in 12 different countries, such as Singapore, Hong Kong and Russia. Refinitiv assigned RBSL to be the regulated administrator of certain benchmarks, including the WM/R Benchmark Rates and others [listed here](https://www.refinitiv.com/content/dam/marketing/en_us/documents/policies/eu-benchmarks-regulation-commitment.pdf).

We have a core set of universal principles that guide index design and management: a transparent rules-based methodology that is informed by independent committees of market participants. LSEG is focused on applying the highest industry standards in index design and governance and follows the IOSCO Principles for Financial Benchmarks.

LSEG appreciates ESMA’s open consultation to solicit stakeholder views on guidance for EU BMR implementation regarding changes to methodologies around the March 2020 rebalance decisions. LSEG supports the objectives of the EU BMR to ensure that benchmarks are produced in a transparent and reliable manner and so contribute to well-functioning and stable markets, and investor protection.

We would highlight to ESMA that FIL and RBSL acted in line with EU BMR requirements in a transparent way and consulted with external stakeholders during the various market events of March and April 2020.

We believe the EU BMR requirements were clear and sufficient during the COVID-19 pandemic and we acted in line with these. Please see below further detail on our approach which is in line with ESMA’s proposed guidelines. We do not propose any changes to ESMA’s proposal.

<ESMA\_COMMENT\_CP\_GMEC\_1>

**Questions**

1. : Do you have any views on the content of the draft guidelines on the details of any methodology to be used to determine a critical or significant benchmark in exceptional circumstances? Would you suggest including any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_1>

We believe ESMA’s guidance is sufficient and appropriate. We further note it is in line with both FTSE Russell’s and RBSL’s current governance frameworks, which were followed throughout recent market events.

Administrators encountered exceptional circumstances due to the COVID-19 pandemic such as extreme market volatility, irregular pricing and timing on input data, rebalancing concerns, operational stresses, and urgent activation of business continuity plans starting in March but persisting throughout 2020.

FTSE Russell and RBSL acted in line with EU BMR requirements and acted in accordance with published methodology documentation. For FTSE Russell this includes the *Statement of Principles* ([link](https://research.ftserussell.com/products/downloads/statement_of_principles.pdf)) and *FTSE Russell Policy for Benchmark Methodology Changes* ([link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Policy_for_Benchmark_Methodology_Changes.pdf?_ga=2.117971530.2110538642.1616497099-949130886.1593677720)). Material changes to the methodology of any RBSL benchmark are governed by the *RBSL Benchmark Change and Cessation Policy* ([link](https://www.refinitiv.com/content/dam/marketing/en_us/documents/methodology/rbsl-benchmark-methodology-change-cessation-policy.pdf)).

Here is a summary of the decisions to provide an overview of the approach taken and how we consider the EU BMR requirements to be clear:

* FTSE Russell equity indices: index rebalances took place as planned.
* FTSE Russell fixed income indices: postponement of rebalances from March until April 2020.
* Refinitiv Core Commodity CRB Indices: one-off exceptional forward roll of WTI Crude Oil futures in April 2020.

Key factors that resulted in the rebalance decision for fixed income indices:

* Taken together, the market consultation results characterized global fixed income market conditions as severely stressed. Liquidity was impaired, the market infrastructure was challenged because of the changes to normal working practices, and the trading environment was characterized by extremely wide bid-offer spreads, reduced dealer inventory and poor price discovery.
* FTSE Russell determined this situation to be a market disruption event. According to the *FTSE Fixed Income Statement of Principles* ([link](https://research.ftserussell.com/products/downloads/Statement_of_Principles_Fixed_Income_Indexes.pdf?_ga=2.152201849.1163737429.1601543396-1611391050.1593677658)), FTSE Russell may exercise expert judgment to ensure that indexes continue to meet the needs of index users and meet their stated objectives in such extreme circumstances.

Key factors that resulted in the forward roll decision for Refinitiv Core Commodity CRB Indices:

* Concerns by market participants following the negative settlement price of the WTI Crude Oil May 2020 futures contract.
* An extraordinary Oversight Committee meeting proposed a methodology change to be consulted on, which was approved by the RBSL Board.
* An expedited public consultation was conducted, and the methodology change implemented following client feedback received.

As of January 2021, the FTSE Russell equity indices can postpone an index review by five business days in the event of a market outage. This change was introduced following the market exceptional circumstances in 2020 and is reflected in the *FTSE Russell Index Policy for Trading Halts and Market Closures* *(*[link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Index_Policy_in_the_Event_Clients_are_Unable_to_Trade_a_Market.pdf))

Therefore, we highlight to ESMA that FIL and RBSL acted in line with EU BMR requirements, in a transparent way and in consultation with external stakeholders. The EU BMR requirements were clear and sufficient during the COVID-19 pandemic, and our actions were in line with ESMA’s proposed guidelines.

We do not propose any changes to ESMA’s draft.

<ESMA\_QUESTION\_CP\_GMEC\_1>

1. : Would you suggest including any additional elements to be taken into account for identifying the overarching principles of the exceptional circumstances? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_2>

We do not suggest any additional elements to be included in these proposed guidelines.

Based on external stakeholder discussions, FTSE Russell believes that our Statement of Principles for [equity](https://research.ftserussell.com/products/downloads/statement_of_principles.pdf) and [fixed income](https://research.ftserussell.com/products/downloads/Statement_of_Principles_Fixed_Income_Indexes.pdf?_ga=2.152201849.1163737429.1601543396-1611391050.1593677658) capture ESMA’s proposed overarching principles for exceptional circumstances.

As an illustrative example of how our policies take into account exceptional circumstances, the *FTSE Russell Index Policy in the Event Clients are Unable to Trade a Market (*[link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Index_Policy_in_the_Event_Clients_are_Unable_to_Trade_a_Market.pdf)) and the *FTSE Russell Index Policy for Trading Halts and Market Closures* ([link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Index_Policy_for_Trading_Halts_and_Market_Closures.pdf)) both address the policies for exceptional circumstances.

These circumstances include events such as:

* Trading halts
* Unscheduled market closures
* Restrictions on the repatriation of capital
* National stock market closures for an extended period
* Exceptional Market Disruptions
* Trading Suspensions in Depositary Receipts

Following the extreme market conditions of March 2020 and following discussions with FTSE Russell’s clients, *FTSE Russell Index Policy for Trading Halts and Market Closures* was updated to include an option to postpone equity index rebalances up to 5 days in case of an unscheduled market closure or outage.

Due to the unique nature of each market outage and unexpected closure, FTSE Russell will review each situation on a case-by-case basis and will determine the best course of action following consultation with its external advisory committees or other internal and external stakeholders (as far as is reasonably practical). This includes evaluating whether FTSE Russell should consider cancelling the impacted reviews altogether; this will be considered if an outage or closure lasts for more than 10 business days.

<ESMA\_QUESTION\_CP\_GMEC\_2>

1. : Do you have any views on the content of the draft guidelines on the material changes to the methodology used to determine a critical or significant benchmark? Would you suggest including any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_3>

We agree with ESMA that administrators should ensure users and potential users of the benchmark understand the steps of a shorter consultation process, including a high-level assessment by the administrator of the responses received and the rationale behind the outcome of the consultation. The proposed guidelines here appear sensible.

FTSE Russell’s consultation policy and consultation process is described in section 2 of *FTSE Russell Policy for Benchmark Methodology Changes* ([link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Policy_for_Benchmark_Methodology_Changes.pdf?_ga=2.117971530.2110538642.1616497099-949130886.1593677720)).

Material changes to the methodology of any RBSL benchmark are governed by the *RBSL Benchmark Change and Cessation Policy* ([link](https://www.refinitiv.com/content/dam/marketing/en_us/documents/methodology/rbsl-benchmark-methodology-change-cessation-policy.pdf)).

Given ESMA’s questions about the use of expert judgement, FIL's approach is described in *Exercise of Expert Judgement in FTSE Russell Indexes* ([link](https://research.ftserussell.com/products/downloads/Exercise_of_Expert_Judgement_in_FTSE_Russell_Indexes.pdf)): if the Index Policy team considers that stakeholder input is required to determine the preferred treatment of an event or calculation issue, the Index Policy team will, where time allows, consult stakeholders, either through discussion at ad-hoc meetings of relevant FTSE Russell advisory committees, or through consultation with affected stakeholders individually, on the most appropriate treatment.

Such consultations will be conducted through open-ended questions and under no circumstances will notice of any final decision be provided to respondents. Based on their analysis of the feedback received, the Index Policy team will determine the appropriate treatment of the event or calculation issue. Instances of the use of expert judgement will be recorded and detailed at the subsequent meeting of the FTSE Russell Product Governance Board.

However, extreme market conditions may create conditions under which clients have insufficient time to provide well-informed answers to the questions of a consultation. In this case the benchmark administrator should follow the principles in the Statement of Principles and other relevant policies.

<ESMA\_QUESTION\_CP\_GMEC\_3>

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

<ESMA\_QUESTION\_CP\_GMEC\_4>

We believe ESMA’s guidance is sufficient and appropriate. We further note it is in agreement with both FTSE Russell’s and RBSL’s current governance frameworks.

To oversee its indices and benchmarks, FTSE Russell and RBSL employ governance frameworks that encompass product, service and technology governance. The frameworks incorporate three lines of defence risk management models and are aligned with IOSCO Principles for Financial Benchmarks, the EU BMR and the UK BMR.

For more details, please see *FTSE Russell Governance Framework (*[link](https://research.ftserussell.com/products/downloads/FTSE_Russell_Governance_Framework.pdf)) and *RBSL Conflicts of Interest Public Disclosure Statement* ([link](https://www.refinitiv.com/content/dam/marketing/en_us/documents/policies/conflicts-of-interest-disclosure-statement.pdf)).

<ESMA\_QUESTION\_CP\_GMEC\_4>

1. : Do you have any views on the content of the draft guidelines on the record keeping requirements? Would you suggest to include any additional elements or to delete one or more of the elements proposed? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_5>

The suggested record keeping guidelines are in line with both FTSE Russell’s and RBSL’s record keeping policies and practices. We have no further suggestions. <ESMA\_QUESTION\_CP\_GMEC\_5>

1. : Would you suggest to further specify any additional elements of the regulatory framework with regard to the use of an alternative methodology in exceptional circumstances? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_6>

We have no further suggestions.

<ESMA\_QUESTION\_CP\_GMEC\_6>

1. : Do you have any views on the content of the draft guidelines amending the guidelines on non-significant benchmarks in respect of any methodology to be used in exceptional circumstances and the oversight function? Would you suggest to include any additional elements or to delete one of the elements proposed? Please explain.

<ESMA\_QUESTION\_CP\_GMEC\_7>

We have no further suggestions.

<ESMA\_QUESTION\_CP\_GMEC\_7>