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By electronic submission

Consultation Paper on the Guidelines on Internal Controls for Benchmark Administrators, Credit Rating Agencies and Market Transparency Infrastructures ("Consultation")

MSCI welcomes the opportunity to comment on the Consultation. It offers a constructive approach to ESMA's expectations for Benchmark Administrators.

Below we set out our main observations on the Consultation and in the attached Annex we offer more detailed comments.

1. **Regulated entities should be able to leverage group-level internal control frameworks:** A centralised internal control framework ("ICF") implemented at group level, while also addressing risks for an EU regulated entity, should be deemed sufficient for EU-regulated entities, provided that effective oversight, reporting mechanisms, and compliance structures are in place. Recognising group-wide frameworks as compliant reduces complexity and enables more sophisticated and specialised oversight of risks.
2. **The Guidelines should allow for organisational flexibility:** ESMA should ensure that the principle of proportionality is effectively applied in its requirements for control functions, taking into account the nature, scale, complexity and the global structure of the supervised entities. ESMA should also allow entities to combine some of the functions or to undertake these control activities as part of another (adjacent) function, where justified from an organisational perspective.
3. **Delay in introduction of new guidelines and transition relief:** The amended EU Benchmark Regulations ("EU BMR"), has added a layer of complexity with respect to the benchmarks that will fall in scope of the regulation. The concurrent timing of onboarding to ESMA supervision under the amended EU BMR and the parallel consultations by ESMA on periodic reporting and supervisory expectations for management bodies creates the risk of a very short preparation period for benchmark administrators. This may hinder their ability to establish the necessary governance and control frameworks required under the proposed guidelines and

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the related governance framework consultation launched by ESMA last year.¹ We, therefore, request that the effective date of the final guidelines should be delayed until the second half of 2026. This would provide adequate time for benchmark administrators to prepare under the new EU BMR regime.

Please do not hesitate to contact us to discuss our submission.

Yours sincerely,

Michael Percival

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¹ [Consultation on reporting requirements and governance expectations for some supervised entities](#) (ESMA | July 8, 2024)

Q1. Do you have any comments on the proposed Guidelines under the section on IC Framework? In providing your comments, please refer to the general principle, component and/or characteristic that you are commenting on.

MSCI: MSCI acknowledges that a well-designed ICF is fundamental to ensuring sound governance, risk management and compliance within financial and regulatory environments. When developing guidelines, it is imperative to recognise the efficiencies and synergies achieved when internal control processes are already established at the global entity level. Given the extensive and interconnected nature of multinational organisations, requiring a supervised entity within a group to replicate controls independently would introduce complexity and necessarily be overseen by a smaller and less specialised team. This would result in sub-optimal outcomes for both a regulator and the regulated entity. An ICF at a group level should be considered sufficient if the controls address the risks relevant to an EU regulated entity within a wider group and are applied effectively to that entity.

We acknowledge the emphasis placed on the principle of proportionality throughout the consultation document. However, we are concerned that the requirements proposed in the guidelines are prescriptive in nature and do not embed proportionate approaches into each particular requirement. This will make it very difficult for supervisors to 'depart' from the letter of the guidelines, even if flexibility would be necessary to achieve a proportionate approach. This could lead to the guidelines being implemented in a manner that creates additional obligations on entities when the same outcome could be achieved with a less intrusive approach. Overly rigid requirements, could result in unnecessary costs for entities that pose little risk to EU clients or financial stability. We request that ESMA adopts guidelines that accommodate different business models and scales of operation, which would encourage innovation while maintaining oversight. The guidelines should incorporate options for proportionate approaches for each requirement, to help supervisors consistently apply flexibility where that is proportionate.

Q2. Are there any other comments you wish to raise on this section?

MSCI:

- I. **Compliance:** Many non-EU benchmark administrators operate as part of large, sophisticated global financial groups that have developed centralised governance, compliance, and risk management frameworks designed to ensure regulatory consistency across jurisdictions. These entities already have well-established internal control systems that comply with the IOSCO Principles for financial benchmarks², leveraging expertise, technology, and infrastructure at

² [Principles for Financial Benchmarks](#) (IOSCO | July 17, 2013)

the group level to achieve compliance efficiently. While the consultation acknowledges the existence of groups, it remains unclear whether ESMA will allow entities to rely on these tried-and-tested group-wide processes in practice. Failing to explicitly allow this would create unnecessary uncertainty and costs. Please also refer to our response to Q1.

- II. Monitoring activities:** We strongly advocate for the principle of proportionality to be consistently applied across all aspects of ESMA's guidelines, including those related to Monitoring Activities. Specifically, Part 1.5.6 introduces expectations for vendors involved in outsourced business processes that may go beyond what is reasonable or necessary. In line with Article 10 (2) and Article 10 (3) of the EU BMR,³ all vendors engaged by benchmark administrators are already subject to a due diligence assessment at the onboarding stage. However, key performance indicators (KPIs) are typically applied only to business-critical outsourcing arrangements. Expanding these requirements to all vendors, regardless of their role or impact, would place an unnecessary burden on benchmark administrators without delivering meaningful enhancements to oversight. To ensure clarity and avoid unintended regulatory expectations, we request ESMA to confirm that the guidelines do not require all the vendors be treated in the same manner.

Q3. Do you have any comments on the proposed Guidelines under this section on IC Functions? In providing your comments, please refer to the general principle, component and/or characteristic that you are commenting on.

MSCI: As indicated in our response to Q1, functions at a group level should be treated as sufficient if these address the risks relevant to an EU regulated entity within a wider group and are applied effectively to that entity. ESMA should ensure that the principle of proportionality is effectively applied in its requirements for control functions, taking into account the nature, scale, complexity and the global structure of the supervised entities.

Q4. Do you have any comments on ESMA's approach to proportionality for Internal Control Functions?

MSCI: Though proportionality has been referred in the Consultation, it needs to be effectively applied especially with respect to the requirement of having specific Internal Control functions. ESMA should apply the principle of proportionality when determining requirements for Internal Control functions, rather than mandating specific, standalone functions across all supervised entities, especially when these functions are carried out at a group level. Given the diverse nature, scale, and complexity of entities within the group structure, a rigid approach could impose excessive administrative and resource burdens, without delivering meaningful enhancements to risk management or compliance.

³ [EU Benchmark Regulations](#) (EU OJ | June 19, 2016)



Instead, allowing entities the flexibility to structure control functions in a way that aligns with their operational model for instance, integrating risk management within compliance or finance, or embedding information security within broader operations or technology teams would ensure efficient and effective governance. Please also refer our responses to Q1 and Q3 for more details.

Q5. Are there any other comments you wish to raise on this section?

MSCI: No additional comment.