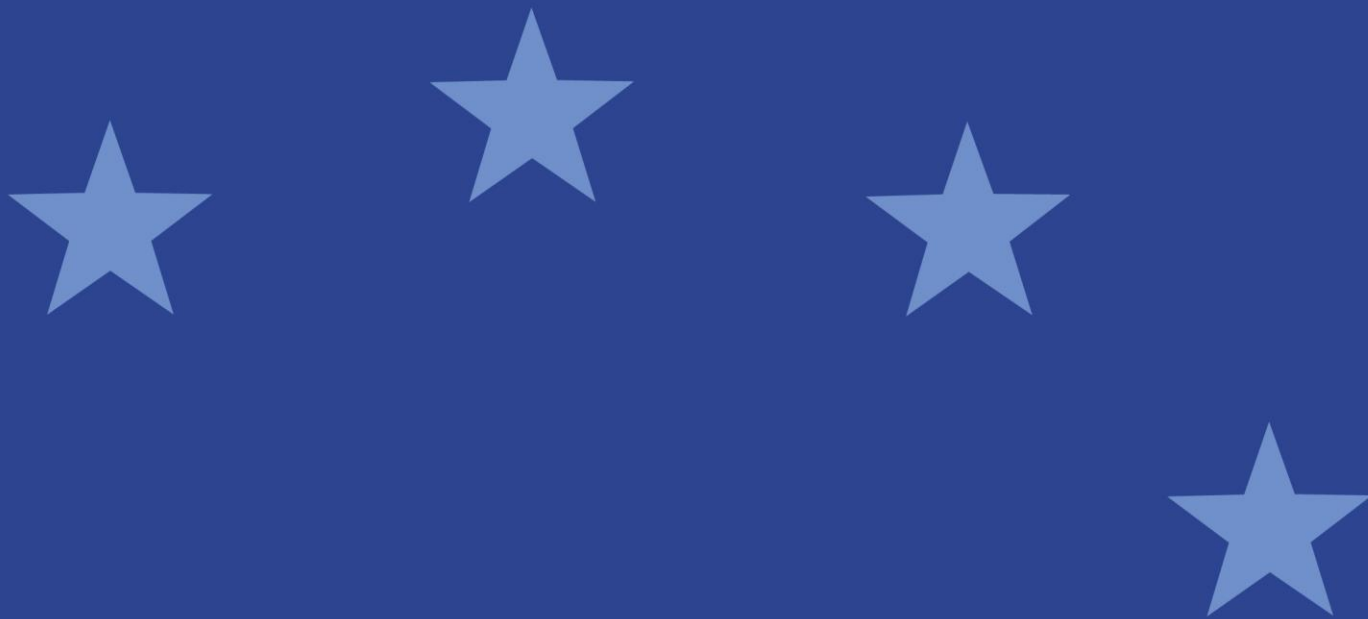




European Securities and
Markets Authority

Reply form for the Discussion Paper on Benchmarks Regulation



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in Consultation Paper on the European Single Electronic Format (ESEF), published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type < ESMA_QUESTION_DP_BMR_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_DP_BMR_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_DP_BMR_XXXX_REPLYFORM or

ESMA_DP_BMR_XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in "Navigation Pane" for Word 2010 and in "Document Map" for Word 2007.

Deadline

Responses must reach us by 29 March 2016.

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



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form 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.** Note also that 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 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 headings 'Legal notice' and 'Data protection'.

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_DP_BMR_1>

Assogestioni¹ welcomes the opportunity to respond to ESMA Discussion Paper on Benchmarks Regulation [ESMA/2016/288].

Firstly, we would like to express our appreciation for the work realized by the ESAs as it is a significant challenge to formulate an appropriate approach on transparency disclosure for the different benchmarks in scope of the Regulation. However, we deem that an important part is still missing, as the current proposal does not take into account all the additional set of requirements for the use of benchmark requested by UCITS funds. These transparency requirements are very extensive, covering calculation, re-balancing methodologies, as well as constituents and their respective weightings (full transparency).

We deem that the Benchmark Regulation framework, whose purpose is also to achieve a higher level of investor protection, is the correct tool in order to take into account such disclosure as well. If this Regulation is to create a safer context for the users of benchmarks, this would also mean that they should be able to avoid, for the asset management industry, a double burden of the information they need to obtain in order to comply with this Regulation as well as with the UCITS framework.

We are aware of the debate around the complete transparency of the benchmark methodology; however, it is unquestionable that a full transparency is already present for many equities and commodities indices. This is the only way for such benchmarks to be used by UCITS funds. In light of this, we suggest to take into account our recommendation in defining the L2 measures.

As regards the transitional and the grandfathering period, we take for granted that the provisions have to be applied not only to financial contracts and financial instruments which reference that benchmark but also to investment funds. This assumed, we believe that the European Supervisory Authorities are the only Authorities that can better manage these transitional periods. In particular, we strongly disagree with the proposed requirement according to which a supervised entity, as an investment fund, should liaise directly with the competent authority of the administrator in order to perform the assessment under article 39(3), where the benchmark provider has not applied for authorisation/registration or such an authorization has been refused. This is not feasible and risks creating an excessive burden on the supervised entity on top of other operational problems, especially when the administrator is located in a third country, as the Regulation foresees three parallel regimes of "recognition". It is evident that reporting to different NCAs would involve additional costs, apart from the difficulties it may pose. We believe that such a liaison should instead be carried out within a coordination at EU level. This may be realized either at national level by the NCAs or at EU level by ESMA. A European coordination is more efficient, cost-effective and time-saving for all the parties involved (supervised entities, administrators, national competent authorities).

In this sense, if the information on the benchmark used by investment funds already available in the offering document and in the fund rules are not sufficient, we support an exceptional survey by the NCAs to identify all benchmarks used and their "outstanding volume". This collection of information will then allow the ESAs to be aware of the indexes used and the potential consequences of the impact of the lack of a request or refusal of an application. Indeed, only ESAs will know if and when the benchmark provider applies or has applied for an authorisation/registration/endorsement.

Finally, we would like to stress that a possible drawback of the Benchmark Regulation is the dominant position of benchmark administrators and in order to address this aspect, we encourage further commitment by ESMA to avoid possible undesirable effects on price control descending from the obligations set by the Regulators. Possible critical issues may come from the definition of the method of calculation of the "volume of benchmark" used by investment funds.

¹ Assogestioni is the trade body for Italian investment management industry and represents the interests of members who manage funds and discretionary mandates around € 1,823 billion (as of December 2015).



<ESMA_COMMENT_ DP_BMR_1>

Q1: Do you agree that an index's characteristic of being "made available to the public" should be defined in an open manner, possibly reflecting the current channels and modalities of publication of existing benchmarks, in order not to unduly restrict the number of benchmarks in scope?

<ESMA_QUESTION_DP_BMR_1>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_1>

Q2: Do you have any proposals on which aspects of the publication process of an index should be considered in order for it to be deemed as having made the index available to the public, for the purpose of the BMR?

<ESMA_QUESTION_DP_BMR_2>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_2>

Q3: Do you agree with ESMA's proposal to align the administering the arrangements for determining a benchmark with the IOSCO principle on the overall responsibility of the administrator? Which other characteristics/activities would you regard as covered by Article 3(1) point 3(a)?

<ESMA_QUESTION_DP_BMR_3>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_3>

Q4: Do you agree with ESMA's proposal for a definition of issuance of a financial instrument? Are there additional aspects that this definition should cover?

<ESMA_QUESTION_DP_BMR_4>
The Discussion Paper proposes a broad definition of issuance of a financial instrument referred to in paragraph (a) of art. 3(1)(5), also inclusive of the "issuance" of investment funds. We have some concerns to extend the definition of "issuance" to include investment funds, as the concept of issuance seems to us more linked to a bond or an equity instruments where an economic connection between the entity that issues the securities (for financing purpose or other benefits) and the value of the securities exists. We also note that all investment funds (regardless of their admission to trade on an EU trading venue) are already included in the definition of "use of a benchmark" as per paragraph (d) of the same art. 3(1)(5).

In addition, para. 29 creates some doubts with regard to the perimeter of the scope of the BMR with reference to financial instruments not admitted to trade on a "trading venue" and exchanged OTC. Indeed, the paragraph states: *"For the purposes of Article 3(1)(5)(a) of the BMR ESMA believes that the concept of issuance of financial instruments should not be limited to securities and should extent to financial instruments that are created for trading also in execution or trading venues other than regulated markets "*. In our understanding, financial instruments not admitted to a trading venue or to a systematic internaliser, are not in the scope of the BMR.<ESMA_QUESTION_DP_BMR_4>

Q5: Do you think that the business activities of market operators and CCPs in connection with possible creation of financial instruments for trading could fall under the specification of "issuance of a financial instrument which references an index or a combination of indices"? If not, which element of the "use of benchmark" definition could cover these business activities?

<ESMA_QUESTION_DP_BMR_5>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_5>

Q6: Do you agree with the proposed list of appropriate governance arrangements for the oversight function? Would you propose any additional structure or changes to the proposed structures?

<ESMA_QUESTION_DP_BMR_6>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_6>

Q7: Do you believe these proposals sufficiently address the needs of all types of benchmarks and administrators? If not, what characteristics do such benchmarks have that would need to be addressed in the proposals?

<ESMA_QUESTION_DP_BMR_7>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_7>

Q8: To the extent that you provide benchmarks, do you have in place a pre-existing committee, introduced through other EU legislation, or otherwise, which could satisfy the requirements of an oversight function under Article 5a? Please describe the structure of the committee and the reasons for establishing it.

<ESMA_QUESTION_DP_BMR_8>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_8>

Q9: Do you agree that an administrator could establish one oversight function for all the benchmarks it provides? Do you think it is appropriate for an administrator to have multiple oversight functions where it provides benchmarks that have different methodologies, users or seek to measure very different markets or economic realities?

<ESMA_QUESTION_DP_BMR_9>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_9>

Q10: If an administrator provides more than one critical benchmark, do you support the approach of one oversight function exercising oversight over all the critical benchmarks? Do you think it is necessary for an oversight function to have sub-functions, to account for the different needs of different types of benchmarks?

<ESMA_QUESTION_DP_BMR_10>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_10>

Q11: Where an administrator provides critical benchmarks and significant or non-significant benchmarks, do you think it should establish different oversight functions depending on the nature, scale and complexity of the critical benchmarks versus the significant or non-significant benchmarks?

<ESMA_QUESTION_DP_BMR_11>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_11>

Q12: In which cases would you agree that contributors should be prevented from participating in oversight committees?

<ESMA_QUESTION_DP_BMR_12>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_12>

Q13: Do you foresee additional costs to your business or, if you are not an administrator, to the business of others resulting from the establishment of multiple oversight functions in connection with the different businesses performed and/or the different nature, scale and type of benchmarks provided? Please describe the nature, and where possible provide estimates, of these costs.

<ESMA_QUESTION_DP_BMR_13>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_13>

Q14: Do you agree that, in all cases, an oversight function should not be responsible for overseeing the business decisions of the management body?

<ESMA_QUESTION_DP_BMR_14>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_14>

Q15: Do you support the proposed positioning of the oversight function of an administrator? If not, please explain your reasons why this positioning may not be appropriate.

<ESMA_QUESTION_DP_BMR_15>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_15>

Q16: Do you have any additional comments with regard to the procedures for the oversight function as well as the composition and positioning of the oversight function within an administrator's organisation?

<ESMA_QUESTION_DP_BMR_16>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_16>

Q17: Do you agree with the proposed list of elements of procedures required for all oversight functions? Should different procedures be employed for different types of benchmarks?

<ESMA_QUESTION_DP_BMR_17>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_17>

Q18: Do you agree with the proposed treatment of conflicts of interest arising from the composition of an oversight function? Have you identified any additional conflicts which ESMA should consider in drafting the RTS?

<ESMA_QUESTION_DP_BMR_18>

TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_18>

Q19: Do you agree with the list of records to be kept by the administrator for input data verification? If not, please specify which information is superfluous / which additional information is needed and why.

<ESMA_QUESTION_DP_BMR_19>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_19>

Q20: Do you agree that, for the information to be transmitted to the administrator in view of ensuring the verifiability of input data, weekly transmission is sufficient? Would you instead consider it appropriate to leave the frequency of transmission to be defined by the administrator (i.e. in the code of conduct)?

<ESMA_QUESTION_DP_BMR_20>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_20>

Q21: Do you agree with the concept of appropriateness as elaborated in this section?

<ESMA_QUESTION_DP_BMR_21>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_21>

Q22: Do you see any other checks an administrator could use to verify the appropriateness of input data?

<ESMA_QUESTION_DP_BMR_22>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_22>

Q23: Would you consider it useful that the administrator maintains records of the analyses performed to evaluate the appropriateness of input data?

<ESMA_QUESTION_DP_BMR_23>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_23>

Q24: Do you see other possible measures to ensure verifiability of input data?

<ESMA_QUESTION_DP_BMR_24>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_24>

Q25: Do you agree with the identification of the concepts and underpinning activities of evaluation, validation and verifiability, as used in this section?

<ESMA_QUESTION_DP_BMR_25>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_25>

Q26: Do you agree that all staff involved in input data submission should undergo training, but that such training should be more elaborate / should be repeated more frequently where it concerns front office staff contributing to benchmarks?

<ESMA_QUESTION_DP_BMR_26>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_26>

Q27: Do you agree to the three lines of defence-principle as an ideal type of internal oversight architecture?

<ESMA_QUESTION_DP_BMR_27>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_27>

Q28: Do you identify other elements that could improve oversight at contributor level?

<ESMA_QUESTION_DP_BMR_28>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_28>

Q29: Do you agree with the list of elements contained in a conflict of interest policy? If not, please state which elements should be added / which elements you consider superfluous and why.

<ESMA_QUESTION_DP_BMR_29>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_29>

Q30: Do you agree that where expert judgement is relied on and/or discretion is used additional appropriate measures to ensure verifiability of input data should be imposed? If not, please specify examples and reasons why you disagree.

<ESMA_QUESTION_DP_BMR_30>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_30>

Q31: Do you agree to the list of criteria that can justify differentiation? If not, please specify why you disagree.

<ESMA_QUESTION_DP_BMR_31>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_31>

Q32: Do you agree to the list of elements that are amenable to proportional implementation? If not, please specify why you disagree.

<ESMA_QUESTION_DP_BMR_32>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_32>

Q33: Do you agree to the list of elements that are not amenable to proportional implementation? If not, please specify why you disagree.

<ESMA_QUESTION_DP_BMR_33>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_33>

Q34: Do you consider the proposed list of key elements sufficiently granular “to allow users to understand how a benchmark is provided and to assess its representativeness, its relevance to particular users and its appropriateness as a reference for financial instruments and contracts”?

<ESMA_QUESTION_DP_BMR_34>

As regards the **comprehensive list** of key elements identified by ESMA, please refer to our response to Q35. Below, please find some observations to the proposed list.

We agree with ESMA where, in para. 116, it proposes that the definition of a benchmark should be considered an integral part of the methodology. Accordingly, we suggest updating the list contained in para. 122, where a set the minimum elements for methodology is disclosed, in order to include the definition of a benchmark, too.

ESMA should also clarify that the reference to “*whether the benchmark requires period changes in composition to remain representative. The criteria and frequency changes shall be disclosed*” also includes a disclosure on the rebalancing frequency (where - in a strict sense - the composition remains the same but the weights in the benchmark change based on objective rules). Indeed, in our understanding, such disclosure is currently foreseen only when the administrator has discretion in the selection and composition of inputs.

<ESMA_QUESTION_DP_BMR_34>

Q35: Beyond the list of key elements, could you identify other elements of benchmark methodology that should be disclosed? If yes, please explain the reason why these elements should be disclosed.

<ESMA_QUESTION_DP_BMR_35>

We believe that all the provisions foreseen in the UCITS framework should be included as key elements of the benchmark methodology. Different criteria are set in relation to the index eligibility that deal with the construction (i.e. the methodology) and the publication of the index in Article 19(1)(g) of Directive 85/611/EC (UCITS Directive), in article 9 of Directive 2007/16/EC (Eligible Asset Directive) and in ESMA's guidelines (ESMA/2014/937).

Different disclosure provisions are already taken into account in the Regulation but an important part is still missing, which is the full transparency on benchmark, including benchmark constituents and their weights. ESMA's guidelines consider such a requirement a key element to understand the characteristic of the benchmark and therefore its eligibility for a UCITS fund.

We believe that the Benchmark Regulation framework, whose purpose – we stress - is also to achieve a high level of investor protection is the correct tool to take into account the additional set of requirements for the use of benchmark requested by UCITS funds. The stricter rules foreseen for UCITS could be helpful for all retail investors.

It should be noted that, in order to evaluate the suitability of an index according to the ESMA Guidelines, the manager of the fund needs to have access to a number of data related to benchmarks, the collection of which can be difficult as each benchmark administrator has different disclosure policies and practices in place. If this Regulation aims to create a safer context for the users of benchmarks, this would also mean that they should be able to avoid double burdens for the information they need to obtain in order to comply with this Regulation as well as with UCITS framework.

We are aware of the debate around the complete transparency of the benchmark methodology; however, it is unquestionable that a full transparency is already present for many equities and commodities indices. In case full transparency is not adequate, such benchmarks could not be used by UCITS funds.

With specific regard to the risk of front running as a possible drawback with regard to the full transparency, as ESMA mentions in para. 118 of the Discussion Paper, it is important to be aware that this risk is already present and will continue to be present until the UCITS framework will not be changed. Para 56 of ESMA guidelines foresees indeed that *“UCITS should not invest in financial indices for which the full calculation methodology to, inter alia, enable investors to replicate the financial index is not disclosed by the index provider. This include providing detailed information on index constituents, index calculation (including effect of leverage within the index), re-balancing methodologies, index changes and information on any operational difficulties in providing timely or accurate information. Calculation methodologies should not omit important parameters or elements to be taken into account by investors to replicate the financial index. This information should be easily accessible, free of charge, by investors and prospective investors, for example, via the internet. Information on the performance of the index should be freely available to investors.”*

In case ESMA considers that disclosure of all the additional set of requirements for the use of benchmark by UCITS is not appropriate for all the benchmarks in scope of the Regulation, we suggest using a proportional approach and require a “full disclosure” at least for equity benchmarks, and, where possible, also for commodity benchmarks.

With specific reference to the key elements that should be included, we suggest also taking into consideration the following ones which do not only deal with the publication on the constituent information:

- Objective and market to be represented;
- The criteria and procedure used to determine the benchmark, including information on the universe of the benchmark component, the benchmark constituents and the basis upon which these components are selected; the method used to rebalance its composition, frequency and cost of re-balancing;
- Rules of diversification of the index; where applicable, specify if there is a cap on the individual component weighting;
- Information on index calculation methodology (models or method used, including effect of leverage within the index, if the index is partly based on cash management, the approach taken to re-investment of revenues, the allowance of retroactive changes to already published index value (“backfilling”));
- publication of an index: the way of the publication (if it is a website the name of the specific webpage (no generic reference to the name of the administrator or other entity); where the benchmark constituents and their weights are published; frequency of such publication (including an explanation if the benchmark components are published before the next rebalancing of the benchmark); where the value of the benchmark is published;
- Information on any operational difficulties in providing timely or accurate information.

<ESMA_QUESTION_DP_BMR_35>

Q36: Do you agree that the proposed key elements must be disclosed to the public (linked to Article 3, para 1, subpara 1, point (a))? If not, please specify why not.

<ESMA_QUESTION_DP_BMR_36>

Yes, we agree that the key elements must be disclosed to the public.

<ESMA_QUESTION_DP_BMR_36>

Q37: Do you agree with ESMA’s proposal about the information to be made public concerning the internal review of the methodology? Please suggest any other information you consider useful to disclose on the topic.

<ESMA_QUESTION_DP_BMR_37>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_37>

Q38: Do you agree with the above proposals to specify the information to be provided to benchmark users and, more in general, stakeholders regarding material changes in benchmark methodology?

<ESMA_QUESTION_DP_BMR_38>
We agree with the ESMA proposal
<ESMA_QUESTION_DP_BMR_38>

Q39: Do you agree, in particular, on the opportunity that also the replies received in response to the consultation are made available to the public, where allowed by respondents?

<ESMA_QUESTION_DP_BMR_39>
We agree with the ESMA proposal
<ESMA_QUESTION_DP_BMR_39>

Q40: Do you agree that the publication requirements for key elements of methodology apply regardless of benchmark type? If not, please state which type of benchmark would be exempt / which elements of methodology would be exempt and why.

<ESMA_QUESTION_DP_BMR_40>
As expressed in our reply to Q35, we suggest to adopt a proportional approach and require a “full disclosure” of at least equity benchmarks, and, where possible, commodity benchmark, in case ESMA does not consider it appropriate to disclose all the additional requirements foreseen for the “use” of a benchmark by UCITS amongst the key elements of methodology. <ESMA_QUESTION_DP_BMR_40>

Q41: Do you agree that the publication requirements for the internal review of methodology apply regardless of benchmark type? If not, please state which information regarding the internal review could be differentiated and according to which characteristic of the benchmark or of its input data or of its methodology.

<ESMA_QUESTION_DP_BMR_41>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_41>

Q42: Do you agree that, in the requirements regarding the procedure for material change, the proportionality built into the Level 1 text covers all needs for proportional application?

<ESMA_QUESTION_DP_BMR_42>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_42>

Q43: Do you agree that a benchmark administrator could have a standard code for all types of benchmarks? If not, should there be separate codes depending on whether a benchmark is critical, significant or non-significant? Please take into account your answer to this question when responding to all subsequent questions.

<ESMA_QUESTION_DP_BMR_43>

TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_43>

Q44: Do you believe that an administrator should be mandated to tailor a code of conduct, depending on the market or economic reality it seeks to measure and/or the methodology applied for the determination of the benchmark? Please explain your answer using examples of different categories or sectors of benchmarks, where applicable.

<ESMA_QUESTION_DP_BMR_44>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_44>

Q45: Do you agree with the above requirements for a contributor's contribution process? Is there anything else that should be included?

<ESMA_QUESTION_DP_BMR_45>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_45>

Q46: Do you agree that the details of the code of conduct to be specified by ESMA may still allow administrators to tailor the details of their codes of conduct with respect to the specific benchmarks provided?

<ESMA_QUESTION_DP_BMR_46>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_46>

Q47: Do you agree that such information should be required from contributors under the code of conduct? Should any additional information be requested?

<ESMA_QUESTION_DP_BMR_47>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_47>

Q48: Are their ways in which contributors may manage possible conflicts of interest at the level of the submitters? Should those conflicts, where managed, be disclosed to the administrator?

<ESMA_QUESTION_DP_BMR_48>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_48>

Q49: Do you foresee any obstacles to the administrator's ability to evaluate the authorisation of any submitters to contribute input data on behalf of a contributor?

<ESMA_QUESTION_DP_BMR_49>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_49>

Q50: Do you agree that a contributor's contribution process should foresee clear rules for the exclusion of data sources? Should any other information be supplied to administrators to allow them to ensure contributors have provided all relevant input data?

<ESMA_QUESTION_DP_BMR_50>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_50>

Q51: Do you think that the listed procedures for submitting input data are comprehensive? If not, what is missing?

<ESMA_QUESTION_DP_BMR_51>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_51>

Q52: Do you agree that rules are necessary to provide consistency of contributors' behaviour over the time? Should this be set out in the code of conduct or in the benchmark methodology, or both?

<ESMA_QUESTION_DP_BMR_52>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_52>

Q53: Should policies, in addition to those set out in the methodology, be in place at the level of the contributors, regarding the use of discretion in providing input data?

<ESMA_QUESTION_DP_BMR_53>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_53>

Q54: Do you agree with the list of checks for validation purposes? What other methods could be included?

<ESMA_QUESTION_DP_BMR_54>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_54>

Q55: Do you agree with the minimum information requirement for record keeping? If not would you propose additional/alternative information?

<ESMA_QUESTION_DP_BMR_55>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_55>

Q56: Do you support the recording of the use of expert judgement and of discretion? Should administrators require the same records for all types of benchmarks?

<ESMA_QUESTION_DP_BMR_56>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_56>

Q57: Do you agree that an administrator could require contributors to have in place a documented escalation process to report suspicious transactions?

<ESMA_QUESTION_DP_BMR_57>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_57>

Q58: Do you agree with the list of policies, procedures and controls that would allow the identification and management of conflicts of interest? Should other requirements be included?

<ESMA_QUESTION_DP_BMR_58>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_58>

Q59: Do you have any additional comments with regard to the contents of a code of conduct in accordance with Article 9(2)?

<ESMA_QUESTION_DP_BMR_59>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_59>

Q60: Do you agree with the above list of requirements? Do you think that those requirements are appropriate for all benchmarks? If not what do you think should be the criteria we should use?

<ESMA_QUESTION_DP_BMR_60>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_60>

Q61: Do you agree that information regarding breaches to the BMR or to Code of Conduct should also be made available to the Benchmark Administrator?

<ESMA_QUESTION_DP_BMR_61>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_61>

Q62: Do you think that the external audit covering benchmark activities, where available, should also be made available, on request, to the Benchmark Administrator?

<ESMA_QUESTION_DP_BMR_62>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_62>

Q63: Do you agree with the proposed criteria for the specific elements of systems and controls as listed in Article 11(2)(a) to (c)? If not, what should be alternative criteria to substantiate these elements?

<ESMA_QUESTION_DP_BMR_63>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_63>

Q64: Do you agree that the submitters should not be remunerated for the level of their contribution but could be remunerated for the quality of input and their ability to manage the conflicts of interest instead?

<ESMA_QUESTION_DP_BMR_64>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_64>

Q65: What would be a reasonable delay for signing-off on the contribution? What are the reasons that would justify a delay in the sign off?

<ESMA_QUESTION_DP_BMR_65>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_65>

Q66: Is the mentioned delay an element that may be established by the administrator in line with the applicable methodology and in consideration of the underlying, of the type of input data and of supervised contributors?

<ESMA_QUESTION_DP_BMR_66>
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<ESMA_QUESTION_DP_BMR_66>

Q67: In case of a contribution made through an automated process what should be the adequate level of seniority for signing-off?

<ESMA_QUESTION_DP_BMR_67>
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<ESMA_QUESTION_DP_BMR_67>

Q68: Do you agree with the above policies? Are there any other policies that should be in place at contributor's level when expert judgement is used?

<ESMA_QUESTION_DP_BMR_68>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_68>

Q69: Do you agree with this approach? If so, what do you think are the main distinctions – amid the identified detailed measures that a supervised contributor will be required to put in place - that it is possible to introduce to cater for the different types, characteristics of benchmarks and of supervised contributors?

<ESMA_QUESTION_DP_BMR_69>
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<ESMA_QUESTION_DP_BMR_69>

Q70: Do you foresee additional costs to your business or, if you are not a supervised contributor, to the business of others resulting from the implementation of any of the listed requirements? Please describe the nature, and where possible provide estimates, of these costs.

<ESMA_QUESTION_DP_BMR_70>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_70>

Q71: Could the approach proposed, i.e. the use of the field total issued nominal amount in the context of MiFIR / MAR reference data, be used for the assessment of the “nominal amount” under

BMR Article 13(1)(i) for bonds, other forms of securitised debt and money-market instruments? If not, please suggest alternative approaches

<ESMA_QUESTION_DP_BMR_71>
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<ESMA_QUESTION_DP_BMR_71>

Q72: Are you aware of any shares in companies, other securities equivalent to shares in companies, partnerships or other entities, depositary receipts in respect of shares, emission allowances for which a benchmark is used as a reference?

<ESMA_QUESTION_DP_BMR_72>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_72>

Q73: Do you have any suggestion for defining the assessment of the nominal amount of these financial instruments when they refer to a benchmark?

<ESMA_QUESTION_DP_BMR_73>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_DP_BMR_73>

Q74: Do you agree with ESMA proposal in relation to the value of units in collective investment undertakings? If not, please explain why

<ESMA_QUESTION_DP_BMR_74>
We agree to take into consideration the value of units in investment funds only one time to avoid double counting.
<ESMA_QUESTION_DP_BMR_74>

Q75: Do you agree with the approach of using the notional amount, as used and defined in the EMIR reporting regime, for the assessment of notional amount of derivatives under BMR Article 13(1)(i)? If not, please suggest alternative approaches.

<ESMA_QUESTION_DP_BMR_75>
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<ESMA_QUESTION_DP_BMR_75>

Q76: Which are your views on the two options proposed to assess the net asset value of investment funds? Should you have a preference for an alternative option, please provide details and explain the reasons for your preference.

<ESMA_QUESTION_DP_BMR_76>
L1 proposes the notional value (for investment fund admitted on a trading value) and the NAV (for all investments funds) as a criteria. As the NAV changes over time (because of subscriptions, performance, etc.), independently of the type of benchmark used or the scope of its use (for example, benchmark used as asset allocation or performance fee), we see a possible distortion in using the NAV, as it generates purely figurative data on the information collected. These distortions become more evident if ESMA decides to take into account the "full" net asset value of the fund for each benchmark used where a fund makes a reference to a benchmark within a combination of benchmarks (para. 214 of the Discussion Paper).

As benchmarks are used by a large part of the investment fund industry, it is possible to hypothesize that they will contribute significantly to the determination of the threshold of a critical benchmark with possible undesirable effects. In particular, we refer to: (a) the more dominant position of benchmark administrator (with the possible undesirable effect on price control descending from the obligations set by the Regulators); and (b) the direct costs associated with the need to update the information on “volume” by the investment fund.

We support ESMA in finding a solution that minimizes such distortions.

In case our suggestions are not shared, with the purpose to give more certainty to the information on NAV, we suggest taking the information to be disclosed to investors under the AIFMD and UCITS directive as a proxy, even if there may be mismatches in terms of availability of data under the UCITS Directive and AIFMD.

<ESMA_QUESTION_DP_BMR_76>

Q77: Which are your views on the two approaches proposed to assess the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of an investment fund referencing a benchmark within a combination of benchmarks? Please provide details and explain the reasons for your preference. Do you think there are other possible approaches? If yes, please explain.

<ESMA_QUESTION_DP_BMR_77>

When an investment fund references a benchmark within a combination of benchmarks, we do not support to take the “full” net asset value as relevant for the purpose of the assessment of “critical” benchmark (second option of the Discussion Paper). If the benchmark only refers to a portion of the “net asset value”, we prefer to take into account the partial value for each benchmark. Please see also our response to Q76

<ESMA_QUESTION_DP_BMR_77>

Q78: Do you agree with the ‘relative impact’ approach, i.e. define one or more value and “ratios” for each of the five areas (markets integrity; or financial stability; or consumers; or the real economy; or the financing of households and corporations) that need to be assessed according to Article 13(1)(c), subparagraph (iii)? If not, please elaborate on other options that you consider more suitable.

<ESMA_QUESTION_DP_BMR_78>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_78>

Q79: What kind of other objective grounds could be used to assess the potential impact of the discontinuity or unreliability of the benchmark besides the ones mentioned above (e.g. GDP, consumer credit agreement etc.)?

<ESMA_QUESTION_DP_BMR_79>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_79>

Q80: Do you agree with ESMA’s approach to further define the above criteria? Particularly, do you think that ESMA should develop more concrete guidance for the possible rejection of the NCA under Article 14c para 2? Do you believe that NCAs should take into consideration additional elements in their assessment?

<ESMA_QUESTION_DP_BMR_80>

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<ESMA_QUESTION_DP_BMR_80>

Q81: Do you think that the fields identified for the template are sufficient for the competent authority and the stakeholders to form an opinion on the representativeness, reliability and integrity of a benchmark, notwithstanding the non-application of some material requirements? Could you suggest additional fields?

<ESMA_QUESTION_DP_BMR_81>

We agree with ESMA's proposal to use the same template for the compliance statement as the one published by the administrator when a benchmark is not classified as critical benchmark and its administrator may decide not to apply a number of requirements indicated in L1 (related to governance and conflict of interest).

As regards the field proposed, we ask not to limit the indication of the "name of the benchmark" only to the name of the benchmark as it appears in the "Register of administrators and benchmarks" published by ESMA. We rather recommend extending it to the name of all benchmarks provided and published or made available in accordance with the Regulation. In our understanding, L1 does not foresee the publication of the name of the benchmark by an EU administrator and a benchmark user may not then understand whether the non-application of some material requirements by the administrator regards all the benchmarks provided by the EU administrator or only some of them.

In order to grant legal certainty and improve the identification of benchmarks or families of benchmark by a user, we suggest to also include in the statement a unique identifier for all types of benchmarks or families of benchmarks related to it (e.g. index level, currency, treatment of dividend, hedging, etc..) . For example, Bloomberg ticker may be used.

<ESMA_QUESTION_DP_BMR_81>

Q82: Do you agree with the suggested minimum aspects for defining the market or economic reality measured by the benchmark?

<ESMA_QUESTION_DP_BMR_82>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_82>

Q83: Do you think the circumstances under which a benchmark determination may become unreliable can be sufficiently described by the suggested aspects?

<ESMA_QUESTION_DP_BMR_83>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_83>

Q84: Do you agree with the minimum information on the exercise of discretion to be included in the benchmark statement?

<ESMA_QUESTION_DP_BMR_84>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_84>

Q85: Are there any further precise minimum contents for a benchmark statement that should apply to each benchmark beyond those stated in Art. 15(2) points (a) to (g) BMR?

<ESMA_QUESTION_DP_BMR_85>

We suggest including in the benchmark statement a declaration indicating whether the benchmark is compliant with the UCITS framework on financial indices or not. This will help European asset managers and, more in general, all the investors in their own assessment. Please see also our response to Q81.

In addition, cross-reference to other sources of information should be included in the Statement to help investors to find in a single document all the relevant information. The cross-reference should not be generic (for example, to the web site), but specific and should refer to the methodology, the compliant statement and the disclosure on the index component, where applicable.

In order to grant legal certainty and improve the identification of benchmarks or families of benchmarks by a user, we suggest to also include in the statement a unique identifier for all types of benchmarks or families of benchmarks related to it (e.g. index level, currency, treatment of dividend, hedging, etc..). For example, Bloomberg ticker may be used.

<ESMA_QUESTION_DP_BMR_85>

Q86: Do you agree that a concise description of the additional requirements including references, if any, would be sufficient for the information purposes of the benchmark statement for interest rate benchmarks?

<ESMA_QUESTION_DP_BMR_86>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_86>

Q87: Do you agree that the statement for commodity benchmarks should be delimited as described? Otherwise, what other information would be essential in your opinion?

<ESMA_QUESTION_DP_BMR_87>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_87>

Q88: Do you agree with ESMA's approach not to include further material requirements for the content of benchmark statements regarding regulated-data benchmarks?

<ESMA_QUESTION_DP_BMR_88>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_88>

Q89: Do you agree with the suggested additional content required for statements regarding critical benchmarks? If not, please precise why and indicate what alternative or additional information you consider appropriate in case a benchmark qualifies as critical.

<ESMA_QUESTION_DP_BMR_89>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_89>

Q90: Do you agree with the suggested additional requirements for significant benchmarks? Which of the three options proposed you prefer, and why?

<ESMA_QUESTION_DP_BMR_90>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_DP_BMR_90>

Q91: Do you agree with the suggested additional requirements for non-significant benchmarks? If not, please explain why and indicate what alternative or additional information you consider appropriate in case a benchmark is non-significant.

<ESMA_QUESTION_DP_BMR_91>
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<ESMA_QUESTION_DP_BMR_91>

Q92: Are there any further contents for a benchmark statement that should apply to the various classes of benchmarks identified in this chapter?

<ESMA_QUESTION_DP_BMR_92>
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<ESMA_QUESTION_DP_BMR_92>

Q93: Do you agree with the approach outlined above regarding information of a general nature and financial information? Do you see any particular cases, such as certain types of providers, for which these requirements need to be adapted?

<ESMA_QUESTION_DP_BMR_93>
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<ESMA_QUESTION_DP_BMR_93>

Q94: Do you agree with ESMA's approach to the above points? Do you believe that any specific cases exist, related either to the type of provider or the type of conflict of interest, that require specific information to be provided in addition to what initially identified by ESMA?

<ESMA_QUESTION_DP_BMR_94>
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<ESMA_QUESTION_DP_BMR_94>

Q95: Do you agree with the proposals outlined for the above points? Do you see any areas requiring particular attention or adaptation?

<ESMA_QUESTION_DP_BMR_95>
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<ESMA_QUESTION_DP_BMR_95>

Q96: Can you suggest other specific situations for which it is important to identify the information elements to be provided in the authorisation application?

<ESMA_QUESTION_DP_BMR_96>
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<ESMA_QUESTION_DP_BMR_96>

Q97: Do you agree with the proposed approach towards registration? How should the information requirements for registration deviate from the requirements for authorisation?

<ESMA_QUESTION_DP_BMR_97>
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<ESMA_QUESTION_DP_BMR_97>

Q98: Do you believe there are any specific types of supervised entities which would require special treatment within the registration regime? If yes, which ones and why?

<ESMA_QUESTION_DP_BMR_98>
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<ESMA_QUESTION_DP_BMR_98>

Q99: Do you have any suggestions on which information should be included in the application for the recognition of a third country administrator?

<ESMA_QUESTION_DP_BMR_99>
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<ESMA_QUESTION_DP_BMR_99>

Q100: Do you agree with the general approach proposed by ESMA for the presentation of the information required in Article 21a(6) of the BMR?

<ESMA_QUESTION_DP_BMR_100>
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<ESMA_QUESTION_DP_BMR_100>

Q101: For each of the three above mentioned elements, please provide your views on what should be the measures to determine the conditions whether there is an 'objective reason' for the endorsement of a third country benchmark.

<ESMA_QUESTION_DP_BMR_101>
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<ESMA_QUESTION_DP_BMR_101>

Q102: Do you consider that there are any other elements that could be taken into consideration to substantiate the 'objective reason' for the provision and endorsement for use in the Union of a third country benchmark or family of benchmarks?

<ESMA_QUESTION_DP_BMR_102>
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<ESMA_QUESTION_DP_BMR_102>

Q103: Do you agree that in the situations identified above by ESMA the cessation or the changing of an existing benchmark to conform with the requirements of this Regulation could reasonably result in a force majeure event, frustrate or otherwise breach the terms of any financial contract or financial instrument which references a benchmark? If not, please explain the reasons why.

<ESMA_QUESTION_DP_BMR_103>
We agree with the three situations described by ESMA to identify the barriers to change or cessation of a benchmark, as they may also apply to the use of benchmarks by investment funds. It should be noted that the grandfathering provisions have to be applied not only to financial contract and financial instruments referencing that benchmark but also to investment funds.
<ESMA_QUESTION_DP_BMR_103>

Q104: Which other circumstances could cause the consequences mentioned in Article 39(3) in case existing benchmarks are due to be adapted to the Regulation or to be ceased?

<ESMA_QUESTION_DP_BMR_104>

We suggest taking into consideration the case when the provider of an index is no longer interested in providing the benchmark due to the new requirements set by the Regulation

<ESMA_QUESTION_DP_BMR_104>

Q105: Do you agree with the proposed definition of “force majeure event”? If not, please explain the reasons and propose an alternative.

<ESMA_QUESTION_DP_BMR_105>

The proposed definition should include a reference to investments funds.

<ESMA_QUESTION_DP_BMR_105>

Q106: Are the two envisaged options (with respect to the term until which a non-compliant benchmark may be used) adequate: i.e. either (i) fix a time limit until when a non-compliant benchmark may be used or (ii) fix a minimum threshold which will trigger the prohibition to further use a non-compliant benchmark in existing financial instruments/financial contracts?

<ESMA_QUESTION_DP_BMR_106>

We do not agree with the proposal to define limits (time limit or monetary threshold limits) until which a non-compliant benchmark may be used. Indeed, the initial proposition of the European Commission was to identify such a condition is not foreseen in L1 anymore.

The conditions proposed do not take into appropriate consideration the investment funds' characteristics. Where a time limit is identified, this make the grandfathering rules useless for the majority of funds that have longer time limits (open-ended mutual funds may have a time limit even longer than 100 years). In addition, in case quantitative limits are foreseen, indexes which are only used by an investment fund, could also be captured, as the Regulation also includes this type of benchmark in its scope. In such a case, it may be difficult to reach a certain threshold and the grandfathering rule will be, in practical, useless for investment funds..<ESMA_QUESTION_DP_BMR_106>

Q107: Which thresholds would be appropriate to foresee and how might a time limit be fixed? Please detail the reasons behind any suggestion.

<ESMA_QUESTION_DP_BMR_107>

As indicated in answer to Q106, we do not deem it appropriate to foresee a time limit.

<ESMA_QUESTION_DP_BMR_107>

Q108: Is the envisaged identification process of non-compliant benchmarks adequate? Do you have other suggestions?

<ESMA_QUESTION_DP_BMR_108>

We understand that there is no central repository where all the information regarding the “use of a benchmark” in investment funds can be found for the assessment by NCAs under article 39(3).

Para. 352 of the Discussion Paper states that “*in the context of transitional provisions, the Regulation is aimed at 3 addressees, namely the benchmark administrator, the user of a benchmark and the national competent authorities where the benchmark administrator is located, it appears that it is in the responsibility of all related parties to contribute the required information according to their abilities*”.

We understand ESMA's view, but we believe that the European supervisory authorities are the only authorities that can better manage the transitional and grandfathering periods, including the envisaged identification process of non-compliant benchmarks for investment funds.

To make and keep the procedures simple and to avoid burdensome costs for all the related parties, as an exceptional circumstances we support a survey to provide evidence to the NCAs (not to the competent authority of the benchmark administrator) of the benchmarks used and the outstanding volume. In this way, the NCAs and through them the European Authority may have a central repository which can be used for different purposes.

For example, ESMA could monitor whether all the benchmark administrators used in the Union have applied for authorisation or registration (as currently, there is no regime of transparency on the applications made). If such request has not been made or is refused, ESMA will also know what kind of impact it this action will have on the market and will also be able to perform the assessment under article 39(3).

In case our suggestions are not shared, we deem it important for a benchmark user (not the benchmark provider) to provide its NCA (not the competent authority of the benchmark administrator) evidence regarding the outstanding volume of investment funds referencing a non-compliant benchmark.

In addition, for the time being, users will officially be informed only upon entry into force of the Regulation when the ESMA website will go live and it can be confirmed whether a benchmark administrator is mentioned in the register. This leaves, however not sufficient time for a smooth transition to another benchmark. We would, therefore, like to stress this important practical difficulty and ask for an alternative solution enabling the users to make good use of the transitional period and prepare a smooth transition to another benchmark or discuss whether the conditions are there to conclude that there is necessary an assessment under article 39(3).

<ESMA_QUESTION_DP_BMR_108>

Q109: Is the envisaged procedure enabling the competent authority to perform the assessment required by Article 39(3) correct in your view? Please advise what shall be considered in addition.

<ESMA_QUESTION_DP_BMR_109>

Please refer to our answers to Q108 and Q111

<ESMA_QUESTION_DP_BMR_109>

Q110: Which information it would be opportune to receive by benchmark providers on the one side and benchmark users that are supervised entities on the other side?

<ESMA_QUESTION_DP_BMR_110>

Please refer to our answers to Q108 and Q111

<ESMA_QUESTION_DP_BMR_110>

Q111: Do you agree that the different users of a benchmark that are supervised entities should liaise directly with the competent authority of the administrator and not with the respective competent authorities (if different)?

<ESMA_QUESTION_DP_BMR_111>

No, we completely disagree with the requirement according to which a supervised entity should liaise directly with the competent authority of the administrator. This is not feasible and risks creating an excessive burden on the supervised entity on top of other operational problems, especially in case of administrators located in third countries, as the Regulation foresees three parallel regimes of "recognition". It is evident that reporting to different NCAs would involve additional costs as well as pose many difficulties.

We believe that such a liaison should instead be carried out within a EU framework of coordination. This may be realized either at national level by the NCAs or at EU level by ESMA. A European coordination is

more efficient, cost-effective and timesaving for all the parties involved. In addition, it will allow the European Authority to be aware of the indexes used and the potential consequence of the impact of the lack of a request of application. Please see also our answer to Q108
<ESMA_QUESTION_DP_BMR_111>

Q112: Would it be possible for relevant benchmark providers/users that are supervised entities to provide to the competent authority an estimate of the number and value of financial instruments/contracts referencing to a non-compliant benchmark being affected by the cessation/adaptation of such benchmark?

<ESMA_QUESTION_DP_BMR_112>

If a list of non-compliant benchmarks will be provided, we do not see any problem to give this information as an exceptional circumstance. <ESMA_QUESTION_DP_BMR_112>

Q113: Would it be possible to evaluate how many out of these financial contracts or financial instruments are affected in a manner that the cessation/adaptation of the non-compliant benchmark would result in a force majeure event or frustration of contracts?

<ESMA_QUESTION_DP_BMR_113>

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<ESMA_QUESTION_DP_BMR_113>