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## **CMC Europe position paper: proposed Benchmarks Regulation**

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- 1. CMC Europe considers it essential that the scope of the proposed Benchmarks Regulation is clear and understood and encourages policy makers to define the scope of the proposed Regulation with care.**
  - 2. CMC Europe supports appropriate and differentiated treatment for commodity benchmarks, reflecting the fact that physical commodities are fundamentally different from financial instruments and financial contracts and taking into account the sources and characteristics of their inputs. If physical commodities are to remain in scope, physical commodity benchmarks produced by price reporting agencies (PRAs) should be regulated in strict accordance with the IOSCO PRA Principles. Relevant provisions of the proposed Regulation must be fully aligned with the IOSCO PRA Principles.**
  - 3. CMC Europe cautions policy makers on designating benchmarks as so-called “critical benchmarks”. We believe such designations should be restricted to the most important interbank offered rates and similar financial benchmarks. Commodity benchmarks are not critical in the same manner and critical benchmark requirements such as mandatory reporting are inappropriate for commodity benchmarks.**
  - 4. CMC Europe members use hundreds of commodity and other benchmarks daily, many of which are produced outside of the Union. Like other market participants, we need practical and workable provisions for benchmark administrators outside the EU. We do not consider the European Commission’s proposed equivalence mechanism to be practical or workable. Practical and workable provisions should be based on the 2012 IOSCO PRA Principles and 2013 IOSCO Principles for Financial Benchmarks with auditing where appropriate.**
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### **1. Clearly defined scope and application**

CMC Europe notes the exclusions of single price or single value reference prices contained in Recital 15 of the draft legislative proposal and concurs with these exclusions. We consider it essential that the scope of the proposed Benchmarks Regulation is clear and encourage policy makers to expressly exclude from scope in the legislative text single value reference prices and settlement prices prepared by central counterparties (CCPs). We believe the exclusions should be included in the appropriate provisions in the legislation rather than only in the recitals.

### **2. Appropriate, differentiated treatment for commodity benchmarks**

Physical commodities are fundamentally different from financial instruments and financial contracts. Physical commodity markets are fundamentally different from financial markets generally. Commodity benchmarks are fundamentally different from financial benchmarks. They play an indispensable role in physical commodity markets and require proportionate, appropriate and differentiated treatment.

Physical commodity benchmarks produced by price reporting agencies (PRAs) have since 2012 been subject to the IOSCO Principles for Price Reporting Agencies (“IOSCO PRA Principles”) – a specific, tailored regulatory regime governing the production, policing and external auditing of commodity benchmarks. PRAs worldwide have implemented the IOSCO PRA Principles and IOSCO’s recent assessment has found that this regime has functioned effectively.

Title II of the proposal for a Regulation on indices used as benchmarks in financial instruments and financial contracts ("proposed Benchmarks Regulation") does not sufficiently distinguish between commodity benchmarks and financial benchmarks.

We believe certain provisions (e.g. putting in place a legally binding code of conduct, or mandatory front office/contributor separation) could deter many market participants in physical commodity markets from contributing data to price reporting agencies for the production of commodity benchmarks. The effect of this could be to distort and undermine commodity benchmarks, which would greatly reduce transparency in physical commodity markets. Without commodity benchmarks, producers, merchandisers and consumers would be unable to plan production, price long-term agreements and hedge price and market risk. The all-too-real effects of this are higher food prices, higher energy prices and higher industrial input prices.

We believe that the proposed Benchmarks Regulation should be amended to include specific provisions applicable to commodity benchmarks. We consider such amendments to be practical and proportionate and in the best interests of commodity producers, merchandisers and consumers. We offer such sample amendments in annex to this position paper.

### **3. Critical Benchmark designations**

CMC Europe does not believe that commodity benchmarks are so widely used or otherwise critical to financial markets to warrant designation as critical benchmarks and we would caution policy makers on making provisions that would designate them as such. We do not consider that mandatory contribution would ever be appropriate for commodity benchmarks given the key role of transactional data for these benchmarks.

We believe that the proposed Benchmarks Regulation should include substantial quantitative (and risk) thresholds for critical benchmark designations. We believe that any Member State competence to designate 'national critical benchmarks' should be restricted to interbank offered rate benchmarks and closely-related financial benchmarks. We also believe that such designations should be restricted to benchmarks administered in that Member State.

### **4. A workable third country regime**

We consider the Title V provisions on third country benchmarks in the proposed Benchmarks Regulation to be impractical, unworkable and a major risk to international trade. While a number of Member States and third countries have proposed legislation applicable to certain financial benchmarks, no other jurisdiction has proposed or is expected to propose legislation in any way comparable to the proposed Benchmarks Regulation. Therefore and according to the Title V provisions, no benchmark produced outside the Union would comply with the Article 19 requirement. The effect of this would be to prohibit supervised entities from using any such benchmark.

We do not consider the claim that other countries will follow Europe's lead in regulating all benchmarks to be credible. For example, we note recent public correspondence between the US Treasury, the CFTC and senior congressmen confirming that the US has no intention of introducing any new legislation to regulate all benchmarks. We do not believe that alternative provisions based on EU-based benchmark administrators accepting liability for third country benchmarks to be enforceable. We propose instead amendments to Title V that would set out a workable third country regime based upon:

- Compliance with IOSCO PRA Principles or IOSCO Financial Benchmark Principles
- Appropriate external auditing of compliance with the relevant IOSCO Principles
- An ESMA register of certified-compliant third country benchmark administrators

We consider these amendments would provide for a workable third country regime that would neither advantage third country administrators nor encourage EU administrators to relocate. We believe such an approach would also contribute to raising standards as regards the integrity and reliability of benchmarks globally.

**For any questions regarding this position paper, please contact:**  
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### **About the Commodity Markets Council – Europe**

The Commodities Markets Council - Europe (CMC Europe) is an industry group bringing together commercial market participants active across agriculture, energy and soft commodities as well as metal markets. It includes producers, merchandisers and end-users, leading global trading venues for commodity derivative contracts and price reporting agencies.

CMC Europe seeks to promote effective regulation for physical commodity and commodity derivative markets that reflects the key functions of these markets and that is consistent and effective across jurisdictions.

To find out view our website on: [www.commoditymkts.org](http://www.commoditymkts.org)

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## Annex I – Proposed amendments

Commission proposal for a Regulation (2013/0314)	Proposed CMC Europe Amendments
<p><b>Proposal for a regulation</b> <b>Recital 34</b></p> <p><i>Text proposed by the Commission</i></p> <p>(34) This Regulation should take into account the Principles for financial benchmarks issued by the International Organization of Securities Commissions (IOSCO) (hereinafter referred to as ‘<b>IOSCO Principles</b>’) on the 17 July 2013 which serve as a global standard for regulatory requirements for benchmarks. <i><b>It is necessary for investor protection that an assessment that the supervisions and regulation in any third country are equivalent to Union supervision and regulation of benchmarks takes place before any benchmark provided from that third country can be used in the Union.</b></i></p> <p><b>Proposal for a regulation</b> <b>Recital 34 a (new)</b></p> <p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p> <p>(34) This Regulation should take into account the Principles for financial benchmarks issued by the International Organization of Securities Commissions (IOSCO) (hereinafter referred to as ‘<b>IOSCO <i>Financial Benchmark</i> Principles</b>’) on the 17 July 2013, <i><b>as well as the Principles for Oil Price Reporting Agencies issued by IOSCO on the 5th October 2012 (hereinafter referred to as ‘IOSCO PRA Principles’).</b></i> These serve respectively as <i><b>the relevant</b></i> global standards for regulatory requirements for benchmarks</p> <p><i>Amendment</i></p> <p><i><b>(a) Physical commodities markets present unique characteristics that must be taken into account in order to avoid undermining the integrity of commodity benchmarks and negatively impacting commodity market transparency, European security of supply, competitiveness and the interests of consumers. IOSCO, in collaboration with the International Energy Agency and the</b></i></p>

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 2**

*Text proposed by the Commission*

(2) ‘benchmark’ means any index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument is ***determined or an index that is used to measure the performance of an investment fund;***

***International Energy Forum among others, has developed a specific set of principles for commodity benchmarks produced by price reporting agencies (IOSCO PRA Principles). The IOSCO PRA Principles are tailored to the specificities of international physical commodity markets and accordingly in respect of commodity benchmarks produced by price reporting agencies this Regulation fully aligns with those principles.***

*Amendment*

(2) ‘benchmark’ means any index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument is determined or an index that is ***licensed for use by an investment fund for the purpose of implementing an index tracking strategy***

<b>Proposal for a regulation</b> <b>Article 3 – paragraph 1 – point 20 a (new)</b>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>a. ‘regulated-data benchmark’ means a benchmark determined by the application of a formula from:</i></p> <p><i>i) input data contributed entirely from</i></p> <p><i>(a) a trading venue as defined in point (24) of paragraph 1 of Article 4 of Directive 2014/65/EU, or</i></p> <p><i>(b) an approved publication arrangement as defined in point (52) of paragraph 1 of Article 4 of Directive 2014/65/EU or a consolidated tape provider as defined in point (53) 3 of paragraph 1 of Article 4 of Directive 2014/65/EU, in accordance with mandatory post-trade transparency requirements, however, only with reference to data of transactions concerning financial instruments that are traded on a trading venue, or</i></p> <p><i>(c) an approved reporting mechanism as defined in point (54) of paragraph 1 of Article 4 of Directive 2014/65/EU, however, only with reference to data of transactions concerning financial instruments that are traded on a trading venue and that must be disclosed in accordance with mandatory post-trade transparency requirements, or</i></p> <p><i>(d) an electricity exchange as referred to in point (j) of paragraph 1 of Article 37 of Directive 2009/72/EC, or</i></p> <p><i>(e) a natural gas exchange as referred to in point (j) of paragraph 1 of Article 41 of Directive 2009/73/EC, or</i></p> <p><i>(f) an auction platform referred to in Article 26 or in Article 30 of Regulation (EU) No 1031/2010 of the European Parliament and of the Council;; or</i></p>

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 23 (new)**

*Text proposed by the Commission*

*(g) data from Union or Third Country governments or other competent authorities*

*(h) a third-country trading venue, platform, exchange, publication arrangement or reporting mechanism determined to be equivalent by the Commission to those specified in paragraphs (a) to (f) above or any other entity such as transactional data aggregators and transactional data collectors whose contribution of input data is already subject to appropriate supervision;*

*(ii) net asset values of the units of undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EU.*

*Amendment*

*(23) ‘price reporting agency’ means a publisher and information provider who reports prices transacted in physical commodity and some commodity derivatives markets, and gives an informed assessment of price levels at distinct points in time. A price reporting agency also reports news stories relevant to the commodity markets.*

**Proposal for a regulation**

**Article 12 – paragraph 2 – point a (new)**

*Text proposed by the Commission*

2. In addition to the requirements of the Title II, the specific requirements set out in Annex III shall apply to commodity benchmarks.

*Amendment*

2. In addition to the requirements of the Title II, the specific requirements set out in Annex III shall apply to commodity benchmarks.

***In relation to commodity benchmarks where the administrator is a price reporting agency, the specific requirements set out in Annex III shall apply and Annex I, Title II and Articles 15 and 16 shall not apply.***

**Proposal for a regulation**

**Article 12 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to specify, or adjust, in light of market and technological developments and international developments, the following elements of **Annexes II and III**:

*Amendment*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 to specify, or adjust, in light of market and technological developments and international developments, the following elements **of Annex II**:

**Proposal for a regulation**

**Article 12 – paragraph 3 point (j)**

*Text proposed by the Commission*

***(j) The criteria and procedures for developing the benchmark (Annex III point 1 a)***

*Amendment*

***deleted***



**Proposal for a regulation**

**Article 12 – paragraph 3 point (k)**

*Text proposed by the Commission*

***(k) The elements to be included in the methodology and the description of the methodology (Annex III point 1 and 2)***

*Amendment*

***deleted***

**Proposal for a regulation**

**Article 12 – paragraph 3 point (l)**

*Text proposed by the Commission*

***(l) The requirements of the administrator regarding the quality and the integrity of the benchmark calculation and the content of the description attached to each calculation (Annex III point 5 and 6)***

*Amendment*

***deleted***

**Proposal for a regulation**

**Article 20 – paragraph 1**

*Text proposed by the Commission*

1. Benchmarks provided by an administrator established in a third country may be used by supervised entities in the Union provided that the following conditions are complied with:

*Amendment*

1. Benchmarks provided by an administrator located in a third country may be used by supervised entities in the Union provided that the following conditions are complied with ***or provided that (i) a functionally independent auditor has confirmed that the administrator complies with the IOSCO principles or equivalent international standards in respect of the relevant benchmarks; (ii) the administrator has notified ESMA that it consent to its benchmarks being used by supervised entities in the Union and of the***

**Proposal for a regulation**  
**Article 23 – paragraph 1**

*Text proposed by the Commission*

***1. The administrator shall submit an application for authorisation to the competent authority of the Member State in which the administrator is located.***

**Proposal for a regulation**  
**Article 23 – paragraph 1 point (i) (new)**

*Text proposed by the Commission*

**Proposal for a regulation**  
**Article 23 – paragraph 1 point (ii) (new)**

*Text proposed by the Commission*

*list of the benchmarks*

*Amendment*

***1. A natural or legal person located in the Union that intends to act as an administrator shall apply to the competent authority designated under Article 29 of this Regulation for the Member State in which this person is located, in order to receive:***

*Amendment*

***(i) an authorisation if it provides indices which are used or intended to be used in the meaning of this Regulation,***

*Amendment*

***(ii) a registration if it provides solely indices which are regulated-data benchmarks in accordance with Article 3(20a) and/or commodity benchmarks produced by PRAs which are used or intended to be used in the***

	<i>meaning of this Regulation,</i>
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<b>Annex III</b>	
<p><b>Proposal for a Regulation</b>  <b>Annex III, introductory part</b></p> <p><i>Text proposed by the Commission</i></p> <p>This Annex applies to ‘commodity benchmarks’ which means a benchmark where the underlying asset for the purposes of Article 3(1)(c) is a commodity within the meaning of point (2) of Article 2 of Commission Regulation (EC) No 1287/2006</p>	<p><i>Amendment</i></p> <p><b><i>This Annex applies to commodity benchmarks where the administrator is a price reporting agency.</i></b></p> <p><b><i>The requirements of Title II, Articles 15, 16 and Annex I shall not apply.</i></b></p> <p><b><i>Although this Annex articulates uniform requirements, it does not contemplate a “one-size-fits-all” method of implementation to achieve compliance. For example, differences in methodological approach or in the specific measures implemented by administrators to obtain bona fide data and other information are consistent with these provisions, as long as the approaches and measures meet the objectives set out in this Annex.</i></b></p> <p><b><i>Nothing in this Annex is intended to restrict an administrator from adopting its own unique methodologies or from adapting their methodologies to changing market conditions.</i></b></p> <p><b><i>The various measures set out in this Annex shall be implemented in accordance with a ‘reasonableness’ standard.</i></b></p> <p><b><i>An administrator should formalise, document, and make public any methodology that it uses for a benchmark. (1aa)(new) A methodology should aim to achieve benchmarks which are reliable indicators of market value, free from distortion and representative of the</i></b></p>

**Annex III, point 1**

**Proposal for a regulation**

*Text proposed by the Commission*

1. ***For the purposes of Articles 8, 9 and 16***, the methodology and the description of the methodology in the benchmark statement shall include the following elements:

**Proposal for a regulation**

**Annex III, point 3**

*Text proposed by the Commission*

**In accordance with Article 7(1)(e)** an administrator shall adopt and make public to users' explicit procedures and the rationale of any proposed material change in its methodology. Those procedures shall be consistent with the overriding objective that an administrator must ensure the continued integrity of its benchmark calculations and implement changes for good order of the particular market to which such changes relate. Such procedures shall provide:

**Proposal for a regulation**

**Annex III, point 5, introductory part (new)**

*Text proposed by the Commission*

In accordance with Article 8 and 9, an administrator shall:

***particular market to which they relate.***

*Amendment*

***The methodology shall at a minimum contain and describe:***

*Amendment*

**An** administrator shall adopt and make public to users explicit procedures and the rationale of any proposed material change in its methodology. Those procedures shall be consistent with the overriding objective that an administrator must ensure the continued integrity of its benchmark calculations and implement changes for good order of the particular market to which such changes relate. Such procedures shall provide:

*Amendment*

***An administrator shall take measures that are intended to ensure the quality and integrity of the price assessment process.***

***An administrator shall:***

**Annex III, point 1 (c)**  
**Proposal for a regulation**

*Text proposed by the Commission*

(c) the relative importance that shall be assigned to each criterion used in benchmark calculation, in particular the type of market data used, and the type of criterion used to guide judgement *so as to ensure the quality and integrity of the benchmark calculation;*

**Annex III, point 1 (e)**  
**Proposal for a regulation**

*Text proposed by the Commission*

(e) criteria that address the assessment periods where the submitted data fall below the methodology's recommended transaction data threshold or the requisite administrator's quality standards, including any alternative methods of assessment including theoretical estimation models;

**Proposal for a regulation**  
**Annex III, point 2**

*Text proposed by the Commission*

2. The administrator shall publish the:

*Amendment*

(c) The relative importance that **generally** shall be assigned to each criterion used in benchmark calculation, in particular the type of market data used, and the type of criterion used to guide judgement. ***This is not intended to restrict the specific application of the relevant methodology but is to ensure the quality and integrity of the benchmark.***

*Amendment*

(e) criteria that address the assessment periods where the submitted data fall below the methodology's recommended transaction data threshold or the requisite administrator's quality standards, including any alternative methods of assessment including theoretical estimation models. ***That criteria should explain the procedures used where no transaction data exists;***

*Amendment*

2. **An** administrator shall ***describe and*** publish the:

**Proposal for a regulation**  
**Annex III, point 5 (a)**

*Text proposed by the Commission*

(a) specify the criteria that define the physical commodity that is the subject of a particular methodology;

**Proposal for a regulation**  
**Annex III, point 5 (b)**

*Text proposed by the Commission*

(b) give priority to input data in the following order, where consistent with the administrators methodologies:

- (1) concluded and reported transactions;
- (2) bids and offers;
- (3) other information.

If concluded **and reported** transactions are not given priority, the reasons should be explained as called for in point 6(b).

**Proposal for a regulation**  
**Annex III, point 5 (d)**

*Text proposed by the Commission*

(d) establish and employ procedures to identify anomalous **or suspicious** transaction data and keep records of decisions to exclude transaction data from the administrator's benchmark calculation process;

*Amendment*

*Deleted*

*Amendment*

**(b) utilise input data, giving priority** in the following order, where consistent with the administrator's **approach to ensuring the quality and integrity of a benchmark:**

- (1) concluded and reported transactions;
- (2) bids and offers;
- (3) other information.

***Nothing in this provision is intended to restrict an administrator's flexibility in using input data consistent with its methodologies. However,*** if concluded transactions are not given priority, the reasons should be explained as called for in point 6(b).

*Amendment*

(d) establish and employ procedures to identify anomalous (***i.e., in the context of an administrator's methodology***) transaction data and keep records of decisions to exclude transaction data from the administrator's

**Proposal for a regulation**  
**Annex III, point 5 (e)**

*Text proposed by the Commission*

(e) encourage contributors to submit all of their market data that falls within the administrator's criteria for that calculation. Administrators shall seek, so far as they are able and is reasonable, ensure that data submitted are representative of the contributors' actual concluded transactions; and

**Proposal for a regulation**  
**Annex III, point 5 (f)**

*Text proposed by the Commission*

(f) employ a system of appropriate measures so **to ensure** that contributors comply with the administrator's quality and integrity standards for market data.

**Proposal for a regulation**  
**Annex III, point 6**

*Text proposed by the Commission*

6. An administrator shall describe and publish with each **calculation**, to the extent **possible** without prejudicing due publication of the benchmark:

benchmark calculation process;

*Amendment*

(e) encourage contributors to submit all of their market data that falls within the administrator's criteria for that calculation. Administrators shall seek, so far as they are able and is reasonable, **to** ensure that data submitted are representative of the contributors' actual concluded transactions; and

*Amendment*

(f) employ a system of appropriate measures so **that, to the extent possible**, contributors comply with the administrator's **applicable** quality and integrity standards for market data.

*Amendment*

6. An administrator shall describe and publish with each **benchmark**, to the extent **reasonable** without prejudicing due publication of the benchmark:

**Proposal for a regulation**  
**Annex III, point 6 (a)**

*Text proposed by the Commission*

(a) a concise explanation, sufficient to facilitate a benchmark subscriber's or competent authority's ability to understand how the calculation was developed, including, at a minimum, the size and liquidity of the physical market being assessed (such as the number and volume of transactions submitted), the range and average volume and range and average of price, and indicative percentages of each type of market data that have been considered in a calculation; terms referring to the pricing methodology shall be included such as "transaction-based", "spread-based" or "interpolated or extrapolated";

**Proposal for a regulation**  
**Annex III, point 6 (b)**

*Text proposed by the Commission*

(b) a concise explanation of the extent to which, and the basis upon which, judgment **including the** exclusions of data which otherwise conformed to the requirements of the relevant methodology for that calculation, basing prices on spreads or interpolation, extrapolation, or weighting bids or offers higher than concluded transactions, if any, was used in any calculation.

*Amendment*

(a) a concise explanation, sufficient to facilitate a benchmark subscriber's or competent authority's ability to understand how the calculation was developed, including, at a minimum, the size and liquidity of the physical market being assessed (**meaning** the number and volume of transactions submitted), the range and average volume and range and average of price, and indicative percentages of each type of market data that have been considered in a calculation; terms referring to the pricing methodology shall be included such as "transaction-based", "spread-based" or "interpolated or extrapolated";

*Amendment*

(b) a concise explanation of the extent to which, and the basis upon which, judgment (**meaning** exclusions of data which otherwise conformed to the requirements of the relevant methodology for that calculation, basing prices on spreads or interpolation, extrapolation, or weighting bids or offers higher than concluded transactions), if any, was used in any calculation.



**Proposal for a regulation**  
**Annex III, point 7**

*Text proposed by the Commission*

***In accordance with Article 5,*** an administrator shall:

*Amendment*

An administrator shall:

**Proposal for a regulation**  
**Annex III, point 8**

*Text proposed by the Commission*

8. ***In accordance with Article 5,*** an administrator shall:

*Amendment*

8. An administrator shall:

**Proposal for a regulation**  
**Annex III, point 7 (a) (a) (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) have arrangements to ensure its benchmarks can be produced on a consistent and regular basis;***

**Proposal for a regulation**  
**Annex III, point 8 (c)**

*Text proposed by the Commission*

(c) institute internal control procedures to ensure the integrity and reliability of calculations. At a minimum, such internal controls and procedures shall require the on-going supervision of assessors to ensure that the methodology was properly applied.

*Amendment*

(c) institute internal control procedures to ensure the integrity and reliability of calculations. At a minimum, such internal controls and procedures shall require ***(a)*** the on-going supervision of assessors to ensure that the methodology was properly applied;

**Proposal for a regulation**  
**Annex III, point 9**

*Text proposed by the Commission*

9. ***In accordance with Article 5***, an administrator shall have rules and procedures in place to document contemporaneously relevant information, including:

**Proposal for a regulation**  
**Annex III, point 10**

*Text proposed by the Commission*

10. ***In accordance with Article 5***, an administrator shall have rules and procedures in place to ensure that an audit trail of relevant information is retained for at least five years in order to document the construction of its calculations.

***and (b) procedures for internal sign-off prior to releasing benchmarks for dissemination to the market.***

*Amendment*

9. An administrator shall have rules and procedures in place to document contemporaneously relevant information, including:

*Amendment*

10. An administrator shall have rules and procedures in place to ensure that an audit trail of relevant information is retained for at least five years in order to document the construction of its calculations.

***An administrator shall document, implement and enforce comprehensive policies and procedures for the identification, disclosure, management and avoidance of conflicts of interest and the protection of integrity and independence of assessments. The policies and procedures should be kept up to date.***

**Proposal for a regulation**  
**Annex III, point 11, introductory part**  
**(new)**

*Text proposed by the Commission*

11. ***In accordance with Article 5, an administrator's conflicts of interest*** policies and procedures shall:

**Proposal for a regulation**  
**Annex III, point 12**

*Text proposed by the Commission*

12. An administrator shall ensure that its other business operations have in place procedures and mechanisms designed to minimise the likelihood that conflicts of interest will affect the integrity of benchmark calculations.

**Proposal for a regulation**  
**Annex III, point 13**

*Text proposed by the Commission*

13. An administrator shall ensure it has segregated reporting lines amongst its managers, assessors and other employees and from the managers to the administrator's most senior level management and its board to ensure:

**Proposal for a regulation**  
**Annex III, point 14**

*Text proposed by the Commission*

14. An administrator shall disclose to its ***users*** as soon as it becomes aware of a

*Amendment*

11. ***At a minimum those*** policies and procedures shall:

*Amendment*

12. An administrator shall ensure that its other business operations have in place ***appropriate*** procedures and mechanisms designed to minimise the likelihood that conflicts of interest will affect the integrity of benchmark calculations.

*Amendment*

13. An administrator shall ensure it has ***appropriate*** segregated reporting lines amongst its managers, assessors and other employees and from the managers to the administrator's most senior level management and its board ***(if any), designed*** to ensure:

*Amendment*

14. An administrator shall disclose to its ***stakeholders*** as soon as it becomes aware of

<p>conflict of interest arising from the ownership of the administrator.</p> <p><b>Proposal for a regulation</b> <b>Annex III, point 15</b></p> <p><i>Text proposed by the Commission</i></p> <p>15. <b><i>In accordance with Article 5</i></b>, an administrator shall have in place and publish written procedures for receiving, investigating and retaining records concerning complaints made about an administrator's calculation process. Such complaint mechanisms shall ensure that:</p> <p><b>Proposal for a regulation</b> <b>Annex III, point 15 (g)</b></p> <p><i>Text proposed by the Commission</i></p> <p>(g) there is recourse to an independent third party appointed by the administrator. if a complainant is dissatisfied with the way a complaint has been handled by the relevant administrator <b>or the administrator's decision in the situation</b> no later than six months from the time of the original complaint; and</p>	<p>a conflict of interest arising from the ownership of the administrator.</p> <p><i>Amendment</i></p> <p>15. <b>An</b> administrator shall have in place and publish written procedures for receiving, investigating and retaining records concerning complaints made about an administrator's calculation process. <b>Among other things</b>, such complaint mechanisms shall ensure that:</p> <p><i>Amendment</i></p> <p>(g) there is recourse to an independent third party appointed by the administrator. if a complainant is dissatisfied with the way a complaint has been handled by the relevant administrator no later than six months from the time of the original complaint; and</p>
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