CMCE response to HMT's consultation on the future regulatory regime for benchmarks and benchmark administrators

11 March 2026

Opening remarks

The Commodity Markets Council Europe (CMCE) welcomes the opportunity to respond to HM Treasury's consultation on the future regulatory regime for benchmarks and benchmark administrators.

CMCE supports the objective of creating a more proportionate and internationally competitive framework. However, the proposed removal of the distinct legislative regime for commodity benchmarks, combined with a shift to a purely qualitative designation framework, risks undermining internationally recognised standards and introducing unintended regulatory uncertainty.

Commodity markets differ fundamentally from financial markets. They are global, decentralised and rooted in the trading of physical goods. Market participants are typically large international firms operating across multiple jurisdictions, and transactions are often bespoke, negotiated infrequently and shaped by product quality, logistics, storage and delivery constraints. Price formation reflects tangible supply-and-demand fundamentals and the physical costs of moving and storing commodities. Unlike financial markets, these markets often lack continuous electronic trading, deep liquidity and full transactional transparency.

Reflecting this environment, commodity benchmarks are completely different from financial benchmarks. Commodity benchmarks are based on independent price assessments produced by Price Reporting Agencies (PRAs). Commodity benchmarks support trade, risk management and contract pricing across global supply chains. Their methodologies, which may incorporate transaction data, bids and offers, and expert judgement, are designed specifically to reflect physical market conditions. These characteristics are internationally recognised through the IOSCO Principles for Oil Price Reporting Agencies, which underpin Annex II of the UK BMR. These Principles are entirely separate from and different to the regime created by IOSCO for financial benchmarks.

Given the inherently global nature of commodity benchmarks, international alignment is essential. Many benchmarks are administered outside the UK and are embedded in cross-border contracts, which underpin the international sale of goods markets. The UK and EU remain the only jurisdictions with comprehensive benchmark legislation, making regulatory coherence between them particularly important. CMCE therefore welcomes the proposed Overseas Recognition Regime (ORR), provided it operates in a streamlined and outcomes-based manner that avoids duplicative authorisation or unnecessary supervisory layering. Barriers to cross-border provision could discourage overseas administrators from making benchmarks available to UK users, harming liquidity, risk management, transparency and competitiveness of the UK.

To preserve London's role as a global centre for commodity pricing and risk management, the future regime must remain aligned with the IOSCO PRA Principles and established international practice. These standards have long been accepted as the appropriate approach to addressing risks arising from commodity benchmarks and they have been reconsidered and reaffirmed by the EU during the recent Benchmark

Regulation Review, which confirmed the continuation of the application of the Annex II regime to commodity benchmarks.

CMCE therefore strongly makes the following recommendations:

- Maintain the dedicated and proportionate framework for commodity benchmarks grounded in the IOSCO PRA Principles and include it in the forthcoming Statutory Instrument (SI),
- We note that the EU has retained a distinct legislative framework for commodity benchmarks. A materially divergent UK approach would risk regulatory fragmentation, create uncertainty for internationally active PRAs and market participants, and could adversely affect cross-border market access. Maintaining a clearly articulated, IOSCO-aligned commodity framework would reinforce the UK's position as a credible and competitive global benchmark jurisdiction.
- Recognise IOSCO compliance as the basis for the UK commodity benchmark regime to enable users to access global commodity benchmarks.
- Restrict the scope for additional regulatory burdens, such as FCA Handbook compliance (e.g. SMCR) to be applied to commodity benchmark administrators and their contributors. These requirements were not designed with traditional PRA business models in mind and may create operational challenges for administrators of global physical commodity benchmarks. The FCA Handbook was developed for different types of regulated firms and activities, whereas the IOSCO PRA Principles were specifically designed to reflect the structure and functioning of PRA-administered commodity benchmarks.
- Designation of a commodity benchmark should be based on clear, specific and transparent criteria which are not subjective or vulnerable to political pressure. The introduction of quantitative thresholds should accompany justification that a benchmark poses a 'systemic risk'. Adopting a clear quantitative threshold, mirroring the EU's €50 billion benchmark-usage threshold for determining significance would ensure that smaller benchmarks would not be treated as systemically important. This clarification would remove unfair and disproportionate discretion being used to bring a commodity benchmark into scope regardless of its size or scale, especially in times of market stress or volatility; for example, when a commodity price has risen because of a change in legitimate market fundamentals. In accordance with the IOSCO PRA Principles, disapply any Title II-style contributor regime to all commodity benchmarks subject to the Annex II framework to avoid deterring voluntary participation or create a two-level framework for "authorised" vs "non-authorised" contributors.
- Designation should not apply to an entire benchmark administrator, as extending the scope to cover all of an administrator's activities, including their non-critical benchmarks that pose limited risk, would undermine the principle of proportionality to no regulatory benefit.
- Revoke the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, which create needless uncertainty for administrators and users alike.
- Be forward looking, reconsidering the definition of a "commodity" so that benchmark underlyings used in connection with commodities, such as freight, renewable energy certificates, and weather, potentially data centre capacity may be taken into account.

Question 1: Do you agree with the proposed approach to the regulation of benchmarks in the UK, in particular:

- **A narrower regime with only benchmarks and administrators, which may have an impact on the integrity of the financial system and consumers, required to be regulated;**
- **A designation regime based on qualitative criteria to determine which benchmarks are regulated;**
- **Not having an opt-in regime;**
- **Administrators of designated benchmarks and designated benchmark administrators to be regulated by the FCA as authorised firms?**

CMCE answer

CMCE supports the objective of narrowing the regime to benchmarks that pose systemic risk. However, we do not support the proposal to remove the distinct legislative framework for commodity benchmarks or to rely solely on qualitative designation criteria.

(a) Narrower regime

A narrower regime is appropriate, provided that:

- Commodity benchmarks continue to be regulated under a framework explicitly grounded in the IOSCO Principles for Oil Price Reporting Agencies. The legislation should avoid being overly prescriptive and instead establish an expectation that the FCA will apply the appropriate benchmark principles in a manner calibrated to the characteristics of the asset class (such as precious metals).
- The distinct characteristics of commodity markets are reflected in the standards set in primary legislation and not under a regulator's rulebook that was never designed for global physical commodity benchmarks.

Commodity benchmarks do not pose systemic financial stability risks in the same way as Interbank Offered Rates (IBOR)-type benchmarks. They function as price discovery tools in global physical markets, so we would expect the vast majority of commodity benchmarks to not be subject to designation. However, if a commodity benchmark were designated, it would be even more important that the regulatory regime to which it is subject is (a) appropriate to the risks which it presents and (b) in line with tried and tested internationally recognised standards. Empowering a regulator to take a different approach or to treat them under rules conceived for financial benchmarks, risks undermining their reliability, integrity and utility. The market requires sufficient certainty that the regulatory regime will be stable and appropriate and that can only be achieved by entrenching these principles in legislation.

(b) Qualitative designation regime

CMCE does not support reliance on qualitative criteria without clear quantitative guardrails. The absence of minimum usage thresholds risks:

- Political or ad hoc designation during periods of market stress.
- Regulatory unpredictability.
- Disproportionate intervention in benchmarks reflecting legitimate supply-demand fundamentals.

The EU BMR includes a €50bn usage threshold for "significant" benchmarks. A similar quantitative threshold should accompany designation under the Specified Authorised Benchmark Regime (SABR) to ensure legal certainty and proportionality.

For the avoidance of doubt, no benchmark beneath the quantitative threshold should be designated, and benchmarks above the threshold should not be designated automatically but still subject to qualitative assessment to determine whether systemic risks are genuinely present.

(c) No opt-in regime

CMCE would support the availability of a voluntary opt-in regime, provided it operates as a supplementary mechanism rather than a substitute for maintaining an appropriately structured legislative framework for commodity benchmarks.

(d) FCA authorisation of designated administrators

Where designation occurs, FCA authorisation is appropriate. However, primary legislation must limit FCA rulemaking so that any requirements for commodity benchmarks, including a Title II style framework for contributors do not exceed, or contradict, the IOSCO PRA Principles.

A mere obligation for the FCA to "have regard" to international standards such as the IOSCO (paragraph 2.30 of the consultation) is insufficient. Explicit legislative anchoring is required to prevent regulatory divergence from international standards.

Question 2: Do you have any comments on the criteria for designation? Do the proposed criteria capture the right risks? If not, what would you change?

CMCE answer

CMCE supports the objective of ensuring that only benchmarks posing genuine systemic risks are designated under SABR. However, the proposed criteria rely almost entirely on qualitative concepts such as "significant and adverse impacts", "no or few substitutes", and "not reasonably practicable to switch". Without clear quantitative guardrails, this introduces subjectivity and regulatory uncertainty.

We recommend that qualitative criteria be accompanied by a clear quantitative usage threshold, similar to the EU's €50 billion benchmark usage threshold for determining significance. Quantitative thresholds enhance legal certainty, limit discretionary or politically influenced decision-making, and ensure that smaller or niche commodity benchmarks are not brought into scope disproportionately. This would better align with the government's objective of a targeted and proportionate regime and would instil confidence in the stability of the UK regime.

It is also important that designation criteria reflect the distinct characteristics of commodity benchmarks. These benchmarks are grounded in global physical markets, rely on voluntary data contributions, and are governed internationally by the IOSCO PRA Principles, which underpin Annex II of the UK and EU BMR. Both IOSCO and Ofgem have cautioned that overly burdensome or inappropriate regulatory approaches risk deterring voluntary participation in the price assessment process, thereby reducing transparency and data quality. The designation framework should therefore explicitly recognise these features and remain consistent with the IOSCO PRA Principles.

Question 3: In reference to the designation criteria, do you have views on what is the appropriate notice period for an authorised firm to transition to a new benchmark should a designated benchmark it uses cease to be provided?

CMCE answer

CMCE agrees that, where a benchmark is designated as systemically important, an orderly transition framework is necessary. In most cases, a minimum notice period of 12 months would be appropriate to allow authorised firms sufficient time to amend contractual arrangements, update systems, renegotiate commercial terms and implement fallbacks. This is particularly relevant where benchmarks are embedded in long-term commodity supply contracts and associated hedging arrangements across global supply chains.

However, it is important to recognise that commodity benchmarks produced by PRAs are materially different from IBOR-type benchmarks. PRA benchmarks are commercially sustainable products reflecting ongoing physical market activity and are rarely subject to abrupt cessation risk. As such, mandated resource or continuation requirements should be proportionate and limited to genuinely systemic cases.

Any notice framework should also avoid creating unintended incentives for premature designation or regulatory intervention. The objective should be to facilitate orderly transition where necessary, without undermining confidence in established benchmarks that operate in line with the IOSCO PRA Principles and Annex II of the UK BMR.

Question 4: Do you agree that HMT should have the option to designate benchmark administrators at an entity-level as well as individual benchmarks?

CMCE answer

CMCE believes that entity-level designation risks being overly broad and disproportionate.

In the commodity benchmark context, many administrators produce a wide range of price assessments covering different commodities, regions and market segments, many of which are niche or sector-specific and pose no systemic risk. PRAs have created global compliance frameworks to oversee the publication of these assessments. However, very few of these meet IOSCO's definition of a commodity benchmark. The existence of a few benchmarks should not trigger entity-level regulation of the entire organisation but only proportionate regulation of the specific benchmark/s concerned. It is important to note that aggregating these price assessments and benchmarks to justify entity-level designation would result in regulatory intervention that extends far beyond the benchmarks that might plausibly raise systemic concerns.

The regulatory regime to which any such firm is subject, should not include compliance with SMCR or other sections of the FCA Handbook originally designed for other types of authorised firm and should not extend beyond the standards set by the IOSCO PRA Principles.

If pursued, entity-level designation should require clear evidence that the aggregate cessation or governance failure of the administrator would have a significant and adverse impact on UK financial stability, rather than simply reflecting broad market usage. This would ensure it remains targeted, proportionate and consistent with the IOSCO PRA Principles underpinning Annex II.

Question 5: Do you have any views on this approach to ESG benchmarks?

CMCE answer

CMCE recognises that Parliament has determined that ESG ratings providers should be subject to regulatory oversight, unless they are already authorised benchmark administrators. In that context, we understand the rationale for aligning the treatment of ESG benchmarks with the broader ESG ratings framework.

However, as a practical consequence, this approach may result in a number of benchmark administrators retaining FCA authorisation solely because of limited ESG-related activity, even where they might otherwise fall outside a reformed and more proportionate benchmark regime. This risks diluting the intended deregulatory effect of the wider reforms to the benchmarks framework.

In light of this, CMCE considers it appropriate to consider the interaction between the benchmarks regime and the ESG ratings regime more closely, including whether targeted exemptions could apply. For example, de minimis thresholds or scope-based exclusions could help ensure that the regime remains proportionate and does not inadvertently capture firms whose ESG benchmark activity is limited or ancillary in nature.

Question 6: Do you have any views on whether the UK should maintain the PAB and CTB labels and regulate the use of the labels?

CMCE answer

N/A

Question 7: Do you agree that commodity benchmarks should be designated under the same criteria as other benchmarks (set out in Chapter 2)?

CMCE answer

Even once the designation criteria are finalised, CMCE considers that while common high-level criteria may be applied to determine whether a benchmark is designated, the supervisory framework that follows designation must reflect the distinct characteristics of commodity markets.

The existing Annex II regime recognised the fundamental differences between commodity and financial benchmarks, as outlined in previous answers. It is therefore essential that benchmark classification and the resulting regulatory requirements accurately reflect the underlying market structure and method of provision, in order to ensure regulation remains appropriate and proportionate.

CMCE considers that designation decisions should first be based solely on clear, objective criteria that evidence systemic risk (including a quantitative usage threshold alongside qualitative factors). The applicable regulatory regime should be considered only once a benchmark has been designated, and for commodity benchmarks, that regime must remain rooted in the IOSCO PRA Principles and Annex II to ensure it reflects the distinct characteristics of physical markets.

We note that the consultation underplays the role of Annex II. As stated in Para. 2.44, it is not a "lighter touch regime," but a calibrated framework designed around the distinct dynamics and structure of commodity markets and their price assessment processes. While Para. 2.3 suggests that Annex II would not be preserved in its current form but instead replaced by FCA-set requirements while having regard to IOSCO principles.

Therefore, the absence of a commodity-specific regime would create unnecessary uncertainty due to the discretion to be given to the FCA in the application of the designation criteria. It would mean that commodity benchmark administrators would lack the necessary clarity on whether their benchmarks will be regulated or not year-to-year.

Question 8: Do you agree that there should no longer be a separate regime in legislation for designated commodity benchmarks?

CMCE answer

CMCE does not support SABR being structured as a single overarching legislative regime as it risks removing the distinct statutory framework that currently applies to PRA commodity benchmarks.

Such an approach would run directly counter to internationally accepted regulatory thinking in this area, which has been tried and tested for many years, which is still generally accepted, and which was recently validated by the EU during the Benchmark Regulation Review. It is internationally acknowledged that commodity benchmarks are subject to different challenges and present different risks, and therefore require different regulatory treatment, to financial benchmarks. It is a matter of concern to our members that the UK is contemplating an approach that does not align with the internationally accepted IOSCO PRA Principles for commodity benchmarks as the EU has done.

Annex II of the UK BMR enshrines the IOSCO Principles for Oil Price Reporting Agencies, which were specifically designed to address the structure and functioning of global physical commodity markets. These Principles are internationally recognised and remain the global standard. The new proposed SABR must continue to preserve the IOSCO PRA Principles in primary legislation to ensure clear statutory recognition of this distinct framework and avoid replacing it with discretionary rulemaking.

Commodity benchmarks are structurally and functionally distinct from financial benchmarks such as IBORs. They reflect global, decentralised physical markets, operate across jurisdictions, and rely on voluntary data contribution. These characteristics materially affect their risk profile and the appropriate regulatory response.

The existing Annex II framework recognises these differences by embedding governance expectations tailored to physical markets, including protections for voluntary contribution, source confidentiality and methodologies that incorporate expert judgement. These features are not incidental or outdated, they are highly valuable to maintaining transparency in markets where trading is bilateral, infrequent and shaped by logistics and quality differentials.

Applying a designation framework designed for financial benchmarks risks misinterpreting normal commodity-market dynamics as indicators of systemic risk. In commodity markets, price movements often reflect genuine supply-demand fundamentals, geopolitical developments or physical disruptions. Volatility or political sensitivity around prices must not be conflated with financial stability concerns.

If commodity benchmarks are to fall within SABR, the designation criteria must explicitly recognise their global and physical nature, their reliance on voluntary contributions, and the existing governance framework that already addresses their specific risks. Without such differentiation, the UK risks diverging from international practice, creating regulatory uncertainty and undermining confidence in UK-administered commodity benchmarks.

Commodity benchmarks also underpin international physical trade, long-term supply contracts and global risk management arrangements. They are not purely financial constructs. The UK and EU are the only major jurisdictions to have implemented benchmark legislation, and the EU's 2025 Benchmark Regulation review retained Annex II. Divergence from this internationally aligned model would risk regulatory fragmentation, create uncertainty for global market participants and weaken the UK's competitiveness as a centre for commodity pricing.

A requirement for the FCA to merely "have regard" to international standards is insufficient protection. Commodity benchmarks rely on voluntary data contribution, protection of confidential sources and methodologies incorporating expert judgement, features explicitly recognised in the IOSCO PRA Principles and embedded in Annex II. Both IOSCO and Ofgem have cautioned that imposing inappropriate financial-market regulatory concepts can deter voluntary participation, reducing data quality and harming market transparency.

Entrenching a distinct commodity benchmarks regime in primary legislation would provide predictability, preserve international alignment and support the government's stated objective of promoting growth and competitiveness. Failure to entrench a regime in line with Annex II/the IOSCO PRA Principles risks regulatory uncertainty, re-enforcing a trend towards relocation of PRA activity outside the UK and unintended harm to market transparency.

Alignment of the FCA Handbook (including SM&CR) with the IOSCO PRA Principles

The introduction of SABR presents an important opportunity for HM Treasury to ensure that the FCA Handbook framework, including the Senior Managers and Certification Regime (SM&CR), is appropriately aligned with the IOSCO PRA Principles as they apply to commodity benchmark administrators.

The current Handbook provisions were developed primarily with regulated financial benchmark administrators in mind. Commodity benchmark administrators operating under the IOSCO PRA Principles function within a fundamentally different market structure. They operate in global, decentralised physical markets, rely on voluntary data contribution, apply methodologies that may incorporate a combination of structured data analysis, automated processes and, where appropriate, expert oversight or judgement, and are subject to internationally recognised governance standards specifically tailored to those characteristics.

Applying financial-market governance constructs without appropriate adaptation risks creating operational friction and legal uncertainty for PRA administrators, without enhancing market integrity. In particular, governance concepts designed for transaction-based, centrally cleared or prudentially regulated financial benchmarks do not always translate effectively to the bilateral, voluntary and judgement-based processes that underpin physical commodity price assessment.

SABR therefore provides a timely legislative vehicle for HM Treasury to require the FCA to review and, where necessary, adapt the Handbook (including SM&CR) to ensure that it properly reflects the distinct IOSCO PRA framework preserved in primary legislation. Such alignment would promote regulatory clarity, maintain international consistency, and avoid inadvertently undermining the voluntary participation and source protections that are essential to maintaining transparency in global commodity markets.

Given the international nature of commodity benchmarks, HM Treasury should consider disapplying the FCA Handbook modules that create de facto Title II-style obligations for Annex II commodity benchmark administrators and their contributors (e.g., SM&CR/COCON/DEPP/EG), or otherwise provide a clear statutory carve-out preventing such extension beyond limits.

Question 9: Do you have views on the proposed approach for contributors to designated benchmarks?

CMCE answer
The CMCE does not support imposing supervision, governance or control requirements on contributors to designated commodity benchmarks Commodity benchmarks rely heavily on voluntary market participation and globally distributed contributors. Introducing direct regulatory obligations on non-authorised contributors risks deterring engagement and undermining data quality. Consistent with the IOSCO PRA principles and Annex II of the UK BMR, the framework for commodity should not distinguish between authorised and not authorised contributors nor recreate any Title II-style contributors regime. The Market Abuse Regulation (MAR) already recognises the Annex II carve out for commodity benchmarks; the subsequent application of other FCA Handbook modules (e.g., SM&CR, COCON, DEPP/EG) to authorised firms should not be used to reintroduce a two-tier contributor model for Annex II commodity benchmarks. Voluntary contribution is a foundational feature of the IOSCO PRA Principles and of Annex II. International experience demonstrates that attempts to over-regulate or indirectly compel participation, whether through codes of conduct, or otherwise, can create a chilling effect, reducing the diversity and quality of data inputs. This would ultimately weaken and undermine the transparency and robustness of benchmarks rather than strengthen them. Any contributor framework under SABR should therefore remain tightly targeted, proportionate and consistent with the IOSCO PRA Principles. It should avoid expanding the regulatory perimeter or the imposition of disproportionate regulatory burdens in ways that could discourage market participants from sharing information with administrators, and avoid placing the UK at a disadvantage by subjecting UK entities to a regulatory burden that is not applicable to or enforceable against foreign entities. MAR already provides a strong and appropriate tool with which the FCA can take action against conduct by any person which undermines the representativeness of a benchmark or otherwise misleads or manipulates the market in financial instruments or their underlying commodities.

Question 10: Do you agree that the FCA needs powers over non-price contributors?
CMCE answer
No, CMCE does not consider it necessary or proportionate to extend FCA powers over non-price contributors in the commodity benchmark context. Commodity benchmarks often incorporate a combination of transactional data, bids and offers, and qualitative market intelligence. The IOSCO PRA Principles recognise that such information may include commercially sensitive or confidential inputs provided voluntarily to administrators. Extending direct regulatory oversight to non-price contributors risks creating uncertainty for market participants about their regulatory exposure. This could deter voluntary engagement, particularly where contributors are based outside the UK or operate across multiple jurisdictions. A chilling effect on the provision of market information would ultimately reduce data quality and transparency.

Existing governance, audit and oversight requirements under the IOSCO PRA Principles, reflected in Annex II, already provide safeguards around methodology, conflicts of interest and data integrity. Expanding the regulatory perimeter to capture non-price contributors would risk introducing disproportionate burdens without clear evidence of systemic benefit. More fundamentally, such an approach would go beyond the benchmark regulation and would in effect regulate all interactions between PRAs and the physical commodity market participants that provide information to them. IOSCO PRA Principles deliberately avoid regulating voluntary information flows for this reason. Extending FCA powers in this way would effectively represent the indirect extension of regulation of PRAs and physical commodity markets, contrary to international standards and is likely to deter participation.

We note again that the Market Abuse Regulation already provides a strong and appropriate tool with which the FCA can take action against conduct by any person which undermines the representativeness of a benchmark or otherwise misleads or manipulates the market in financial instruments or their underlying commodities.

Question 11: Do you agree with the proposed approach for users to benchmarks?

CMCE answer

CMCE supports the proposal to remove the obligation on authorised firms to use only regulated benchmarks. Allowing firms to use both regulated and non-regulated benchmarks enhances flexibility and supports the government's objective of improving competitiveness and access to a wide range of global benchmarks.

It is important, however, that the removal of this requirement does not create unintended signalling effects whereby non-designated benchmarks are perceived as lower quality. Many commodity benchmarks operate in accordance with the IOSCO PRA Principles and Annex II standards, but would not meet systemic designation criteria under SABR. The regime should make clear that non-designation reflects proportionality, not inferiority.

Any FCA guidance for users should remain principles-based and risk-focused, avoiding prescriptive requirements that would indirectly pressure firms to favour designated benchmarks. The objective should be to ensure appropriate risk management and fallback planning without distorting market choice or undermining internationally recognised IOSCO-aligned commodity benchmarks.

Question 12: Do you have views on how references to financial benchmarks should be approached in practice in other regulatory regimes?

CMCE answer

CMCE considers it important that changes under SABR are implemented consistently across other regulatory regimes that reference the definition of a benchmark, including MAR, MiFIR and prospectus-related requirements. The removal of the obligation to use only regulated benchmarks should not create ambiguity or unintended consequences in those frameworks.

In particular, where legislation currently references "regulated benchmarks" or the FCA register, amendments may be necessary to ensure that firms can continue to reference non-designated benchmarks without legal uncertainty. The approach should preserve clarity while maintaining the government's objective of a more proportionate regime.

Any consequential changes should avoid creating indirect incentives that favour designated benchmarks over non-designated ones. The distinction under SABR reflects systemic importance rather than benchmark quality, and this principle should be preserved across related regulatory frameworks.

Question 13: Do you have views on what FCA guidance may be helpful for informing authorised firms' approach to using non-regulated benchmarks?

CMCE answer

CMCE considers that any FCA guidance on the use of non-regulated benchmarks should be high-level and principles-based. Guidance could usefully remind firms of the importance of conducting appropriate and proportionate due diligence, understanding benchmark methodologies, and maintaining robust fallback arrangements where benchmarks are used in financial contracts.

However, such guidance should avoid creating de facto supervisory expectations that encourage firms to prefer designated benchmarks over non-designated ones. Many commodity benchmarks operate in accordance with the IOSCO PRA Principles and Annex II standards, but they would not meet systemic designation criteria under SABR. Non-designation should not be equated with lower quality or higher risk.

The objective should be to support sound risk management without distorting market choice or introducing indirect regulatory pressure. Guidance should therefore focus on firms' internal governance and contingency planning rather than on the regulatory status of individual benchmarks.

Question 14: Do you consider that an Overseas Recognition Regime and FCA's approach to international firms are sufficient to ensure continued access for UK users to designated overseas benchmarks?

CMCE answer

CMCE supports the introduction of an Overseas Recognition Regime (ORR) and agrees that, in principle, it can provide an appropriate mechanism to ensure continued access to designated overseas benchmarks. Given that the UK and EU are the only major jurisdictions to have implemented benchmark legislation, it is particularly important that the ORR facilitates continued mutual market access and avoids unnecessary duplication.

Where an overseas administrator is already subject to a regime aligned with the IOSCO Principles, including, in particular, EU BMR authorisation under Annex II for commodity benchmarks, the ORR should operate in a streamlined and predictable manner. Requiring duplicative authorisation, branch establishment or additional supervisory layers in such cases would increase cost and complexity without enhancing market integrity.

The approach to international firms should also remain proportionate and risk-based. Many commodity benchmarks are global in nature and administered outside the UK. The framework should therefore prioritise international alignment and cooperation rather than imposing UK-specific requirements that could discourage overseas administrators from making their benchmarks available to UK users. It could also put UK firms at a disadvantage in terms of the regulatory burden it imposes since these requirements will not be enforceable against international companies.

Question 15: If not, what specifically would the endorsement and recognition routes add, and why is this needed?

CMCE answer

CMCE considers that if the Overseas Recognition Regime (ORR) is designed to operate in a clear, outcomes-based and internationally aligned manner, it should provide the primary route for access for overseas benchmark administrators. In particular, where an overseas administrator is subject to a robust regulatory framework aligned with the IOSCO Principles, including, for example, the EU BMR framework for commodity benchmarks, duplicative requirements should be avoided.

However, CMCE recognises that not all jurisdictions may be subject to an ORR determination. It is therefore important that alternative routes, such as recognition or endorsement, remain available and workable in practice, so that benchmark administrators from major international markets are not left without a proportionate and viable access pathway.

Overall, the priority should be to avoid duplicative authorisation requirements, legal uncertainty or structural barriers that could discourage overseas administrators from offering benchmarks to UK users. The framework should support international consistency, mutual access and competitiveness, particularly in globally traded commodity markets.

Question 16: Do you agree the FCA should continue to have powers similar to the wind-down powers that FCA currently has over critical benchmarks for designated benchmarks? Do you agree that such powers should be adapted so that they are appropriate for the wind-down of any designated benchmark?

CMCE answer
CMCE agrees that, where a benchmark has been designated as systemically important, the FCA should retain appropriate wind-down powers to facilitate an orderly transition and protect market integrity. The experience of the London Interbank Offered Rate (LIBOR) demonstrated the importance of having a clear intervention toolkit in genuinely systemic cases. However, such powers should be carefully calibrated to reflect the nature of the benchmark in question. Commodity benchmarks differ from contributory interbank rates and are typically commercially sustainable products reflecting ongoing physical market activity. Wind-down powers should therefore be proportionate and targeted, rather than automatically mirroring the framework designed for IBOR-type benchmarks. Any adaptation of powers should ensure they are used only in genuinely systemic circumstances and in a manner consistent with the IOSCO PRA Principles and the distinct characteristics of commodity markets.

Question 17: Do you agree that the FCA should be able to direct authorised firms to restrict some or all use of a benchmark in certain circumstances, for example, where it is being wound down in the UK or abroad?
CMCE answer
CMCE recognises that, in exceptional circumstances, the FCA may require the ability to restrict use of a designated benchmark to support an orderly wind-down or to mitigate systemic risk. Such powers should, however, be exercised with caution and clear justification, given the potential commercial and contractual consequences for firms. In commodity markets, benchmarks are frequently embedded in long-term supply contracts and international trading arrangements. Any restriction on use could have cross-border implications and unintended market impacts. Clear thresholds and transparent decision-making criteria would therefore be essential. These powers should be limited to designated benchmarks and should not extend to non-designated benchmarks, in order to preserve proportionality and legal certainty.

Question 18: Do you have views on whether the FCA should have powers to intervene where a designated administrator gives notice of cessation, for example to mandate continued publication of all its benchmarks?
CMCE answer

CMCE recognises that, in relation to designated benchmarks, the FCA may require limited powers to mandate continued publication for a defined period in order to support an orderly transition. However, such powers should apply only to the specific benchmark that has been designated, and only where systemic risk has been clearly established.

In the context of commodity PRAs, it is important to recognise that cessation typically occurs only where underlying physical market conditions have changed to the extent that it is no longer possible to produce a reliable and credible assessment. Commodity benchmarks are grounded in observable physical transactions and market fundamentals; they are not synthetic constructs that can be maintained independently of market activity. Mandating continued publication where sufficient data or liquidity no longer exists would risk compromising the integrity and credibility of the benchmark itself.

Intervention powers should therefore be benchmark-specific, time-limited, and strictly linked to demonstrable systemic risk. They should not extend to all benchmarks administered by a designated entity, nor require publication where the underlying market no longer supports a robust assessment.

Question 19: Do you think any other changes could be made to the FCA's existing wind-down powers to make them more effective under the proposed regime?

CMCE answer

CMCE does not consider that materially broader powers are required beyond those already available in relation to systemic benchmarks. The focus should be on clarity, proportionality and predictability rather than expansion.

In particular, the framework should ensure that intervention powers do not inadvertently undermine voluntary contribution, editorial independence or source confidentiality in the commodity benchmark context. Clear statutory safeguards recognising the IOSCO PRA Principles would help provide legal certainty and maintain international confidence, provided those principles are not undermined by the application of further inappropriate rules.

Overall, effectiveness under the proposed regime will depend less on expanding powers and more on ensuring that designation thresholds are clear, objective and appropriately constrained.