

PRESS RELEASE

ESMA and the EBA publish final principles on benchmarks

The European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) have published their final report setting out their [*Principles for Benchmark-Setting Processes in the EU*](#).

The Principles are designed to address the problems identified with benchmark-setting processes and will provide benchmark users, administrators, calculation agents, publishers and data submitters with a common framework for carrying out these activities. The application of the Principles will also help in the transition to any potential future EU legal framework for benchmarks.

ESMA and the EBA consider it important that these Principles are implemented by all market participants, with the aim of reinforcing the robustness of the procedures, ensuring transparency to the public and creating a level-playing field, and also by supervisory authorities in their supervisory practices, where relevant and possible.

ESMA and the EBA will review the Principles' application after 18 months, although that time-frame may be altered as necessary, while further work on possible transaction-based alternatives will be carried out by ESMA and the EBA in the near future.

Steven Maijoor, ESMA Chair, said:

“The final Principles now give clarity to benchmark providers and users in the European Union about what is expected of them when engaged in this critical market activity. These Principles reflect the wider work being carried out on benchmarks and their immediate adoption will help restore confidence in financial benchmarks and prepare the way for future legislative change.”

Andrea Enria, EBA Chair, said:

“The EBA and ESMA believe that these Principles represent a sound interim solution for benchmark providers and users, ensuring that these important market indices are produced in a transparent and reliable manner. We are also continuing our review of the implementation of the Euribor recommendations by the European Banking Federation and aim to publish this in due course.”

ESMA and the EBA have co-ordinated their work with current initiatives underway at EU, Member State and international level and have worked toward aligning the Principles with those being developed by the International Organization of Securities Commissions (IOSCO).

Further to comments received during the consultation process, modifications were made to the proposed Principles to address:

- **Continuity** – inclusion of a Principle for the continuity of benchmarks in order to ensure that contingency provisions are in place if the continuity of a benchmark is at risk; and
- **Liquidity requirements** – the data used to construct a benchmark should represent accurately and reliably the underlying assets or prices, interest rates or other values measured by the benchmark and should be based on observable transactions entered into at arm’s length.

Principles on Benchmark-Setting Processes in the EU

The Principles provide a general framework covering all stages of the benchmarks setting process including data submission, administration, calculation, publication, the use of benchmarks and the continuity of benchmarks.

A framework for any benchmark setting process should at least include the Principles set out below in order to instil confidence in financial markets and market participants, and guarantee the necessary accuracy and integrity of the benchmark formation process:

General framework for Benchmark setting

- **Methodology:** the methodologies for the calculation of a benchmark, including information on the way in which contributions are determined and corroborated, should

be documented and be subject to regular scrutiny and controls to verify their reliability;

- Governance structure: the process of setting a benchmark needs to be governed by clear and independent procedures, with detailed information on the process made available publicly, in order to avoid and manage conflicts of interest and limit its susceptibility to manipulation, discretionary decision making or price distortion;
- Supervision and oversight: confidence in a benchmark is enhanced through regulation and oversight and an appropriate sanctioning regime that allows sanctions for improper conduct, as it will be the case in accordance with future EU legislation on market abuse; and
- Transparency: a benchmark should be transparent and accessible to the public, with fair and open access to the rules governing its establishment and operation, calculation, and publication; the fact that a benchmark is (or may be) published first to certain stakeholders before it is to others should be disclosed.

Principles for Benchmark Administrators

- A benchmark administrator should ensure the existence of robust methodologies for the calculation of the Benchmark and appropriately oversee its operations and ensure that there is an appropriate level of transparency to the public regarding the rules governing the Benchmark.

Principles for Benchmark Submitters

- A benchmark submitter should have in place internal policies covering the submission process, governance, systems, training, record keeping, compliance, internal controls, audit and disciplinary procedures, including complaints management and escalation processes.
- A benchmark submitter should maintain and operate effective organisational and administrative arrangements with a view to avoid and manage conflicts of interests from affecting the Benchmark data submitted.

Principles for Benchmark Calculation Agents

- A benchmark calculation agent should ensure a robust calculation of the benchmark and ensure the existence of appropriate internal controls over the benchmark calculations it makes.

Principles for Benchmark Publishers

- A benchmark publisher should ensure reliable publication of the benchmark it has agreed to publish.

Principles for Benchmark Users

- Benchmark users should regularly assess the benchmarks they use in financial products or transactions and verify that the benchmark used is appropriate, suitable and relevant for the targeted market. Any potential irregularities observed in a benchmark should be notified to the benchmark administrator or the relevant Supervisory Authorities if appropriate.

Principles for the continuity of benchmarks

- All those participating in the benchmark setting process and, where relevant, benchmark users should put in place robust and credible contingency provisions for cases in which there is a risk to the continuity of the provision of a benchmark due to, for example, a drying-up of market liquidity, an operational failure, a lack of submissions, transactions or quotes or the unavailability of the benchmark.

Any change to a benchmark framework (calculation methodologies and procedures) should be managed in such a manner as to ensure that any disruption to existing benchmark-referenced contracts are proportionate and minimised.



Notes for editors

1. [2013/658 Final Report—ESMA-EBA Principles for Benchmark-Setting Processes in the EU](#)
2. [2013/659 ESMA-EBA Principles for Benchmark-Setting Processes in the EU](#)
3. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).
4. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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