



European Commission Proposal for a Regulation on benchmarks

**Expert Group on Agricultural Commodity
derivatives and Spot Markets
January 2015**



European
Commission

Agenda

- **Need for action**
- **Commission Proposal**
- **Council negotiations**
- **European Parliament**

Need for Action

Vulnerabilities highlighted by investigations into:

- Interest rate benchmarks (LIBOR, Euribor)
- Energy benchmarks (oil, biofuels) & FX benchmarks

Issues

- Conflicts of interest
- Poor governance
- Lack of controls

Need to ensure that benchmarks are

- Not subject to manipulation
- Robust, reliable and representative

Consistent and Coherent Global regime

- Benchmarks are produced and used globally
- FSB and IOSCO – IOSCO Principles for Financial Benchmarks

Commission Proposal

- **Scope:**
 - **Wide scope**
 - **All indices used:**
 - in financial instruments,
 - financial contracts or
 - for the performance of investment funds
- **Authorisation and supervision**
 - **Authorisation and supervision of administrators by national competent authorities**
 - **Closing the regulatory gap**

Commission Proposal (2)

- **Administrator Requirements**
 - Organisational, governance requirements, accountability and record retention mechanisms
 - Methodology and input data
 - Transparency
 - Monitoring of input data
- **Contributor requirements-**
 - Code of Conduct- controls on how to input data
 - Supervision for regulated entities
- **Specific Sectorial requirements**

Commission Proposal (3)

- **Benchmark statement:** Administrators must provide a statement setting out what the benchmark measures, its vulnerabilities, and notice that the users should make adequate provision in case the benchmark is terminated
- **Publication of underlying data** to allow users to choose the most appropriate and suitable benchmark
- **Suitability assessment for regulated entities in dealings with consumers in financial contracts such as mortgages because of information and contractual asymmetries**

Commission Proposal (4)

- **Commodity benchmarks**

- Legally Binding code of conduct to enhance the submission process
- Requirements in line with the IOSCO Commodity Principles

Transparency of methodology

Criteria to choose data, contributions and to apply judgement

Hierarchy of input data- transactions, quotes, judgements

Complaints and accountability mechanisms

Commission Proposal (5)

- **Critical benchmarks:**
 - Reference more than 500bn
 - Have a majority of supervised contributors.
- **Supervision and Specific Provisions :**
 1. **Mandatory Contributions:** in exceptional circumstances, contributions can be mandated by the relevant authorities.
 2. **A college of supervisors:** to ensure the exchange of information and a coordinated approach to their supervision; with ESMA having binding mediation powers

Commission Proposal (6)

- **Benchmarks are global.** Proposal is consistent in all important aspects with the international standards set by the IOSCO Principles for Financial Benchmarks (July 2013)
- **Regulation applies** to administration, contribution and use **within the Union**
- **Third country benchmarks** can be used by supervised entities in the EU, subject an equivalence decision by the Commission
 - where the third country **legal framework** and **supervisory practice** ensures equivalence
 - taking into account in particular the IOSCO Principles for Financial Benchmarks adopted in July 2013

Council negotiations

- IT Presidency
 - 8 meetings, 4 compromise texts
 - Critical benchmarks- extended to national critical benchmark
 - Additional proportionality (registration, regulated data)
 - Commodity benchmarks:
 - Adherence to code of conduct
 - Requirements of IOSCO principles apply
 - Third country provisions: equivalence, recognition, endorsement
- Outstanding issues for the LV presidency:
 - Definition of Critical Benchmarks
 - Supervision and role of ESMA

European Parliament

- **Rapporteur:** Cora van Nieuwenhuizen (ALDE, NL)
- **Draft report (11/12/2014)**
 - Lower requirements on non-critical (ie commodity) benchmarks:
 - No Code of conduct requirements
 - Requirements of IOSCO commodity principles
 - Critical benchmarks definition extended
 - Role of ESMA
 - Third country provisions- recognition
- **Next Steps**
 - Consideration of Amendments 23/02/2015
 - Vote in ECON 05/03/2015
 - Plenary Vote April

Thank you

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