Frankfurt am Main,
20 August 2020

BVI`s position on the review of the Benchmark Regulation ((EU) 2016/1011)

BVI[1] welcomes the opportunity to present its views of the review of the Benchmark Regulation (BMR). We support the goal of the EU Commission to further streamline the EU framework for indices and ("critical") benchmarks. The BMR helps to strengthen the confidence in the financial markets and helps to prevent manipulation of financial indices.

Investment funds are highly regulated and transparent financial products under the UCITS/AIFM regime. Investment funds have not contributed to the manipulation of (systemically important) financial indices (e.g. Libor, Euribor). Fund management companies do not provide input data for the calculating of (systemically important) benchmarks. Asset Managers are mainly users of benchmarks/market indices. Fund management companies do not have access or the ability to influence the process of creating (systemically important) benchmarks (BM) or financial indices provided by index providers. Asset Managers are not able to manipulate these benchmarks, even if they can be used to measure the performance of an investment fund.

The German investment fund management companies use both public and customized indices and benchmarks provided by index providers which follow their own methodology in respect of use of real transactions, tradable prices, quotes and offered rates. Panel submissions and estimates are only used if no real transaction data are available.

We support the EU Commission`s reform proposal to ensure the seamless continuation of existing contracts referencing critical benchmarks, such as the London Interbank Offered Rate (LIBOR), if, and when their continuity is at risk. More importantly, we fully support as short term measure that supervised entities can continue using certain third country (TC) spot FX-rates as benchmarks for hedging foreign currency risks where no onshore EU alternative is available after the expiry of the end of the deadline for non-EU based benchmark administrators to register their products in the EU.

In the longer term, however, the setup of supervised entity benchmark user obligations under BMR need to be revisited. The aim of the BMR is to protect the European investors from the risk and the disruption created by poorly governance or failing indices. However, since the introduction of the BMR in 2018 supervised entities such as German fund management companies have been put at a competitive disadvantage due to the higher compliance burden associated with benchmark cessation plans, describing the use of benchmarks in the prospectus and the difficulties to find all index information in the ESMA register. More importantly, supervised entities (e.g. UCITS/AIF fund managers (FM)) are required to only use benchmarks which have qualified under the BMR framework which limits their ability to use Third Country (TC) benchmarks going forward, as the FX spot rate issue clearly demonstrates. We therefore support a clear separation of obligations of the benchmark users and the benchmark administrators. The obligations of supervised entity benchmark users should primarily -if not

[1] BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 114 members manage assets more than 3 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

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exclusively- regulated in the laws and regulations applying to such users, i.e. the AIFM and UCITS directives and implementing ESMA Guidelines for ETFs and other UCITS issues for financial indices of 2012 in case of funds. Overlapping or conflicting user regulation can be avoided going forward. The BMR registered product usage obligation for supervised entities therefore should be abolished. BVI therefore, proposes to allow going forward the unlimited use of both BMR compliant and non-compliant products by all EU based financial services firms subject to proper disclosure (Article 29 (2)). In this context we need and continue to support the BMR rule to maintain a benchmark register system for EU and Third Country benchmark administrator and their products. Following a delineation between users and administrator obligations, it would be clear that on the one hand only the ESMA supervised BM administrator is responsible for the entries in the ESMA BM register on which the AIF/UCITS FM may rely and does not need to verify these entries again. On the other hand, it would be clear that the AIF/UCITS FM compliance obligation under said ESMA guidelines is limited to aspects not covered by BMR, e.g. the aspects of sufficient diversification and market representation of a BM. It would be also clear that - as a general rule - AIF/UCITS FM do not need to check on compliance of BM administrators with their BMR obligations.

Furthermore, we strongly encourage the EU institutions to clearly state within the BMR that registered administrators of all benchmarks (and not only critical benchmarks) take adequate steps to ensure that licenses of, and information on, benchmarks are provided on a cost-based, fair, reasonable, transparent and non-discriminatory basis to all supervised entities (e.g. Asset Managers). The EU needs to ensure that benchmark data users (fund management companies) receive the same level of pricelist and data production cost transparency and disclosure and that benchmark data prices are based on a production cost basis.

We consider the BMR review as a vital opportunity to modernise the benchmark framework in view of strengthening the global competitiveness of the EU financial service industry based on a more balanced approach in respect to the compliance rules for supervised entities and benchmark administrators. Therefore, we would like to make to the following specific BMR amendments and suggestions (please consider the attachments):

1. Scope and Supervised Entities

- **Benchmark cessation plans**

The introduction of the legal obligation to use cessation/contingency plans in 2018 has clearly enhanced the compliance- and reporting burden for the German fund industry without additional value for the regulators. The (German) fund industry had already implemented complex cessation/contingency plans for investment funds (UCITS/AIFs) that use indices in accordance with Article 3 (1) No. 7 (e) BMR. Therefore, the German fund industry was/is well prepared for the provision of contingency plans for investment assets, as the selection and determination of (alternative) financial benchmarks is a well-established process in the fund, risk and product management of a fund management company. Due to the introduction of the ESMA guidelines for ETFs and other UCITS issues for financial indices in 2012[2], regulated investment funds (UCITS/AIF) are subject to stringent and extensive due diligence obligations on the use of financial indices. The ESMA Guidelines foresee that only transparent indices are permitted for UCITS to use as a benchmark. These transparency requirements are very extensive covering calculation, re-balancing methodologies, as well as constituents and their respective weightings. Furthermore, part of those rules relate to the disclosure of information on the indices settings to the end-investors (in the UCITS KIID).

[2] https://www.esma.europa.eu/sites/default/files/library/2015/11/esma-2014-0011-01-00_en_0.pdf

(German) fund management companies monitor two different regulatory compliance obligations with the same regulatory aim. The different legal obligations require changes to the fund documents thereby enhancing the legal complexity for the fund management companies. Additionally, benchmark administrators do generally not provide the required information in a transparent, fast, efficient and user-friendly way to the fund industry which are deemed to be necessary to comply with said ESMA Guidelines.

Fund management companies have to rely on the willingness of the benchmark administrators to provide all relevant information, including information on possible alternative benchmarks. Asset Managers are obliged to search, screen and monitor all relevant administrator websites enabling them to identify the relevant benchmark information. Such additional requirements enhance the operational complexity for the supervised entities as fund management companies are obliged to obtain such information.

We therefore take the view that benchmark administrators should be legally required to provide benchmark-related information (e.g. calculation, re-balancing methodologies, constituents and their respective weightings, available alternative benchmarks for cessation/contingency plans) to the supervised entities thereby enabling them to comply with their applicable regulatory requirements.

In the context of the updated publication of cessation plans of alternative benchmarks within the fund documents (e.g. UCITS prospectus) our members fear that the concrete naming of alternative indices could trigger the conclusion of new and complex license agreements with the corresponding index provider. Fund management companies have already concluded extensive, complex and overpriced license agreements with the index providers in order to use the indices for internal (e.g. portfolio and risk management) and external purposes (e.g. institutional reporting).

The BMR requirement to set up additional cessation plans within the fund documents have further increased the legal- and compliance cost for the fund management companies without any additional protection for the European investors. Such an obligation has also put the investment fund industry at a disproportionate compliance burden compared to the Sell-Side (e.g. credit institutions, broker/dealer) as such institutions needs to comply only with the BMR cessation plans.

Furthermore, we strongly disagree with the proposals that cessation plans provided by supervised entities (e.g. Asset Managers) should be approved by competent authorities. The approval requires the submission of such plans by supervised entities to the regulators thereby enhancing the reporting burden for all involved parties without any additional value for the competent authority.

Proposal: Supervised entities (e.g. fund management companies) should not be legally required to produce and maintain robust written plans setting out actions that they would take in the event a benchmark materially changes or ceases to be provided. On a voluntary basis, supervised entities establish their own cessation plans without the need of approval from competent authorities since they may have different approaches considering the nature of their contracts, clients, fallbacks to be applied, defined courses of action and internal proceedings to comply with in a benchmark cessation scenario.

- **Use of benchmarks**

Supervised entities such as fund management companies are only allowed to use benchmarks or a combination of benchmarks within regulated investment funds (UCITS/AIFs) if the benchmark is

provided by an administrator located in the Union or third country administrators/benchmarks and included in the ESMA register. The time and effort associated with the task to search, identify and monitor on a regular basis the ESMA register containing thousands of indices allowed for use by EU administrators and third country benchmarks is huge. It obliges Asset Manager to set up the operational capacities internally to ensure the use of valid benchmarks only.

Benchmark status of DE-UCITS (as of mid-2020)
Source: Morningstar Direct

Fund Benchmark Use	Number of Funds (ISIN)	Net Assets in Euro
Benchmarked	1.234	223.878.666.908
Not Benchmarked	756	91.491.602.775
Unknown	711	71.030.231.592
Total	**2.701**	**386.400.501.275**

According to above analysis based on a Morningstar[3] data set, the majority of German UCITS by number and assets apply in their investment strategy a financial benchmark. This means that at least 71% cent compared to the whole German UCITS universe need to verify if the used benchmark is published by a registered EU administrator or a (third country) benchmarks. Such figures illustrate the increased compliance burden for fund management companies. Such increased compliance burden is not in line with the principle of proportionality compared to credit institutions which do not have to check such a big volume of EU administrators and third country benchmarks. Our proposal is to increase financial market safety and soundness by requiring all benchmark administrators whether in- or outside the EU to be registered within the Union. It is therefore a less far reaching proposal than getting rid of the benchmark administrator requirements overall, as was recently proposed by a group (third country) Sell-Side Associations. Our proposal respects and maintains the general framework of the BMR with respect to encouraging benchmark administrator regulation and is in line with the general principle that EU financial service prudential regulation addresses the organisation, governance and operation of the supervised entities, but does usually not regulate the behaviour of users of regulated financial service providers. Today BMR is an exemption in this respect when compared to banking, insurance, investment fund and credit rating agency regulation.

Proposal: Supervised entities should not be obliged to use and assess on a regular basis if the EU administrator or the third country benchmark is registered in the ESMA register. Benchmark administrators must ensure that the relevant information in the ESMA register is valid at all times.

2. Third Country Benchmarks (FX spot rates)

We fully support as short term measure that supervised entities (e.g. fund management companies) can continue using certain third country spot FX-rates as benchmarks for hedging foreign currency risks where no onshore EU alternative is available after the expiry of the end of the deadline for non-EU based benchmark administrators to register their products in the EU.

Asset Managers need to maintain access to a wide range of Non-EEA benchmarks as they are use an extensive list of benchmarks produced by non-EU providers. Preliminary estimates suggest that the rules applicable to non-EU providers will affect 30% to 75% of indices used. In some cases, this could

[3] Morningstar has data on 1.990 funds/fund share classes with total AuM of 315 bn. Euro or 74%/ 82% of the German UCITS universe. Of the total 1.234 funds (or 62%), with AuM of 224 bn. Euro (71%) state a benchmark.

affect up to 90% of the total number of equity funds managed by an investment manager. It is also important to highlight that the index fund market is very competitive, with the level of fees charged to the investors being a fundamental element.

The extension of the transitional provision to the end of 2021 will give the third country index providers more time to apply for recognition. However, we presume that by the end 2021 especially many small and medium sized non-EU index providers will not have applied for recognition. The concern is for the smaller non-EU index providers, who will not be able or willing to assume BMR requirements, they deem to onerous. If these administrators cannot be used anymore, EU users will be significantly disrupted by the benchmarks landscape in the EU. The scope of index providers will be reduced as in many emerging markets asset classes the relevant indices and rated will not be able to be replaced by the EU benchmark administrators as they lack the relevant input data. To the extent that such indices and rates could be replaced by EU registered providers, this will help concentrating the market power to a few dominant index providers able to support such diversified index business. The situation inevitably will lead to higher costs for end investors. Preventing EU users from using reputable, robust and cost-effective (but not necessarily ESMA registered) TC market indices only operates to the detriment of European investors, savers, pensioners and the real economy.

While a short term solution for FX spot rates is clearly needed as this stage to continue the well-functioning of the real economy as well as financial services industry in the EU, we caution, however, that going forward such a piecemeal regulatory approach allowing the use of non-EU administered benchmarks only on a product by product basis is prone to failure. This approach will ultimately discriminate against EU benchmark administrators or third-country (TC) administrators serving EU based clients versus those TC administrators which do not have license paying clients within the EU, and which therefore have no commercial incentive to be BMR compliant. More importantly, such approach also limits already today the global index investment and hedging opportunities for EU based financial services firms, including but not limited to AIF and UCITS and will reduce their competitiveness on a global scale. BVI therefore, proposes to allow going forward the unlimited use of both BMR compliant and non-compliant products by all EU based financial services firms subject to proper disclosure (Article 29 (2)).
We encourage the EU Commission to continue the process of assessment and recognition of third country jurisdictions for equivalence under the Benchmark Regulation. This will ensure that as much as possible third country benchmarks will be registered under the BMR.

Proposal: Beyond the Commission aim to exempt certain FX spot rates and further recognitions of third country jurisdictions, we suggest as a short term measure to further exclude money market interest rates (e.g.Mexico Interbank TIIE 28 day) published by national central and local bank which do not pose any systemic risk to he financial market. In the longer term going forward the unlimited use of both BMR compliant and non-compliant index and rate products should be permitted for all EU based financial services firms subject only to proper disclosure of the benchmark and whether it is registered with ESMA or not.

3. Register of administrators and benchmarks

In accordance with Article 36 of the regulation, ESMA maintains a register listing benchmark administrator that have either been authorised or registered in the EU as well as benchmarks and administrators approved for use in the Union through equivalence, recognition or endorsement.

During the EU-Commission consultation period to the review the BMR[4], our members have clearly communicated that they are "not satisfied" with the ESMA register for benchmarks and administrators. We have identified the following issues:

- It is impossible to search benchmarks with an identifier which are produced by EU index providers and non-EU index providers. There is a big problem in the case of global benchmark groups. Some index providers appear in the ESMA register: it is then not possible to identify whether a specific benchmark is produced by the index provider in the register or by another entity within the group. The registers currently do not list the benchmarks provided by EU-authorised or -registered administrators, yet several administrators that operate worldwide have only applied for authorisation / registration with respect to a subset of the benchmarks they provide. This means that identification of the benchmarks authorised or registered may prove difficult.

- It is not practicable to maintain two different registers. The usage of two different registers enhances the complexity for supervised entities to identify the relevant indices as fast as possible.

- Technical interfaces are improperly calibrated to download the data content an in efficient way in the IT systems of supervised entities.

However, for large administrators whose portfolio of benchmarks is subject to frequent changes, maintaining an up-to-date list of benchmarks approved for use in the Union could be challenging.

In order to improve the effectiveness of the registers we would like to make the following proposal:

Proposal: The two registers should be merged into one. This will enhance the operational efficiency for all supervised entities as they have only to use one register and access/build up only one interface.

An updated ESMA register should have the following features:

- The merged register should maintain a research functionality which enables supervised entities to user friendly identify individual indices provided by EU/Non-EU authorized/endorsed administrators. An identification code of each benchmark (e.g. ISIN, Ticker) should be provided in the register. Supervised entities should also be able to search for indices based on historical data.

- It should be possible to download the indices in a user-friendly way which automatically fits in the IT systems of the supervised entities.

- It would also be useful if for those benchmark administrators endorsed under Article 33, the details of the endorsing entity were stated on the register. Similarly, it would be welcome if the register shows when a benchmark administrators' application was rejected to ensure that users are able to seek an alternative benchmark in a timely manner. The register should also indicate/track that the registration process of the benchmark administrator is finalised. The mentioned points should be incorporated within the search functionality of the register.

- In addition, controls on the completeness and accuracy of the information included in the register should be enhanced. Web links of the administrators included in the register are not accurate and

[4] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12268-Financial-benchmarks-for-interest-rates-stock-exchange-prices-exchange-rates-etc-review-of-EU-rules/F511987

lead to the generic URL to the administrator's website. It would be very useful to require administrators to give a URL to a page specific to the benchmark which includes the BMR related documentation, such as the benchmark statement.

- Beyond the obligation for climate-related benchmarks, it should be possible to indicate/flag if a benchmark is based on ESG factors or not.
- According to the ESMA Guidelines on ETFs and other UCITS issues a UCITS should not invest in a financial index which has a single component that has an impact on the overall index return which exceeds the relevant diversification requirements i.e. 20%/35%. Such specific UCITS requirement should also be provided by the benchmark administrators and therefore included within the ESMA register.

Our proposal to modernise the register is strongly supported by ESMA efforts to improve the usability of the utility. During the EU-Commission consultation period to review the BMR,[5] ESMA made the following comments:

"ESMA therefore proposes that the register should include information at benchmark level for both EU and TC benchmarks to enhance transparency to and clarity for benchmark users on the benchmarks that they can lawfully use. ESMA should, in a central location, publish all benchmarks and their key metadata (e.g. Name, ISIN, CFI, FISN, date of authorisation or withdrawal of a benchmark) as well as the information on their administrators. The access should be machine-to-machine readable, so market participants can execute due diligence tasks at low cost through so-called RegTech."

The ESMA statement echoes the evidence provided by end users that the registers need to be amended in order to have legal clarity for benchmark users on what benchmarks they can use.

4. Benchmark administrators license practises

Over the past years our members have observed significant increase of costs related to the use of indices, especially the access to the underlying data. Over the couple of years our members have witnessed double digit price increases directly by benchmark administrators and through the making available of the data by market data distributors (MDD). These lead to very high stock market returns for major index provider shareholders at the expense of "the turkeys (i.e. index users such as ETF) which are not invited to the x-mas party".[6]

Major parts of benchmark data are originated and provided by EU regulated benchmark administrators (or affiliated group companies) such as prices, values, composition, weightings and traded data. Benchmark data are often procured not directly from data providers but from MDDs who collect, catalogue and distribute them. One point to note is that MDDs – such as Bloomberg, Refinitiv, Rimes, or Six Financial – are not regulated as financial services providers under the BMR.

In practice, the use of benchmark data has considerably changed and increased over the past decades largely driven by regulation and automation along the whole value chain of asset management industry. There is now more benchmark data to consume and the use of them has changed with the drive

[5] https://www.esma.europa.eu/press-news/esma-news/esma-responds-european-commission-consultation-benchmark-regulation-review

[6] Please see last: Daniel Eckert, Holger Zschäpitz, "Wenn der ETF-Boom der Goldrausch ist, dann ist MSCI die Schaufel", Die Welt, 1.8.2020, p.17 and 19.indicating increases in MSCI share value by 508% over five years , which is double the share value of Apple Inc, and 1171 % since 2010, which isalso ahead of Apple Inc.

towards technical process improvement compared to the nineties when users largely consumed financial market data on screen ("display") and downloaded "locally" into individual user's applications.

However, the screen based "pair of eyes" use of data is receding due to the massive growth of data sources to process and the speed of data delivered to the fund management companies has drastically increased as it now mainly used in programmatic (Non Display Usage) processes in the IT systems throughout the value chain of asset management. Data sources, benchmark administrators and market data distributors have reacted to the growth in data usage by developing since 2006 new data strategies. In this context our members have experienced the following trends:

- **A significant increase in prices:** Index providers have introduced a significant price increase for their products which are clearly above the inflation rate without any additional value for Asset Managers.

- **A general increase in the workload of the administration of license agreements:** Due to the growth of data usage index providers have refined their licensing models and cover now each step along the whole value chain of an Asset Manager. The data license practice ranges from internal applications support to external regulatory reporting as well as ETF production and brand licenses. Benchmark administrators also do not hesitate to charge market participants (e.g. Buy-Side) for separate "created works", "manipulated data" or "derived data" licenses based on use of trading venue, ratings or index data to create (e.g., through mathematical or other manipulations or processes) new data points.

  For example, benchmarks providers also called historically "index sponsors" today impose in excess of 50 different licenses to "nickel and dime" the Buy Side community. Index providers do not have a transparent price and cost policy for the different and complex license models. Further adding to the licenses complexity, there is no standardization of how license concepts are defined (Taxonomy). There is also an intentional purpose to increase the complexity in the diversification of the type and variety of data policies and price policies to allow for each index sponsor unique selling point (USP) and make it harder for investors to compare the cost of different index services in the index license manager (ILM) contract management tool. Due to a lack of standardization for license concepts fund management companies do not have the possibility to compare the license models across different index providers.

- **Stringent audit procedures:** Audit procedures are conducted on the benchmark users to review the adoption and correct application of indices and benchmarks, but often with the aim of generating additional fee income only.

- **„Slicing and Dicing" of license models:** Existing licenses are (further) split along the whole value chain of an Asset Manager. Existing license agreements which were previously priced only for one Asset Manager are now often licensed several times for several companies (custodian, outsourced asset manager, investor). Licensing models have become more fragmented which means that the rights of use of data are more restrictive differentiating between the circumstances of the use of the same data. For example, multiple licensing fees may apply for the same data if used for inter-nal analysis, client reporting and also regulatory purposes. Therefore, the increase of prices along the whole value chain in the fund industry goes further on. This will also be the case for climate-related benchmarks which the Buy-Side needs also to take into consideration.

Currently, the BMR (Article 22, Recital 38) requires only the administrators of critical benchmarks, such as the major IBORs, to take adequate steps to ensure that licenses of, and information on, benchmarks are provided on a fair, reasonable, transparent and non-discriminatory basis to all users.

For the reasons outlined above, we strongly encourage the EU institutions to extend the BMR rule and to take the following proposals into consideration to address the cost issue:

- **Price lists** – Similar to MiFID, benchmark administrators should be required to publish annual price lists of all products/services allowing also for multiyear comparisons and easy identification of product /service changes.

- **Cost disclosure** – Similar to MiFID, BMR should provide for basic pricing rules for products and services stating that prices/revenues under BMR need to have a reasonable relationship with the cost of production. Therefore, benchmark administrators need to publish in-depth cost disclosures allowing to compare the cost of (all) data products with their revenues/price development and to allow for cost-based pricing of benchmark data.

- At minimum, index data production cost based pricing rules for basic “raw” index data including index levels, prices, constituents and weightings similar to what is currently already required from exchanges under MiFID rules, BMR administrators proprietary value added index data and research services will continue to be the main revenue stream for the providers in addition to any index name usage license fees (ETF, index funds) going forward, and will coexist with the envisaged basic index data offer, see point 6 below for details

- **Prohibition of certain license practices** – In particular, the (early) termination of data licenses by benchmark administrators in case of pricing policy or data policy changes should be prohibited until an arbitration tribunal or a regular court has adjudicated on the legality of the required changes.

Proposal: All administrators of benchmarks/indices whether registered or not under the BMR should take adequate steps to ensure that licenses of, and information on, benchmarks are provided on a cost-based, fair, reasonable, transparent and non-discriminatory basis to all supervised entities (e.g. Asset Managers). Specificially all BM adminstrators used by EU based supervisory entities should provide where applicable Price Lists and Cost of BM data production Disclosure. Furthermore index data production cost based pricing rules for basic “raw” index data including index levels, prices, constituents and weightings similar to what is currently already required from exchanges under MiFID rules. Finally a prohibition of certain license practices – In particular the (early) termination of data licenses by benchmark administrators in case of pricing policy or data policy changes should be prohibited until an arbitration tribunal or a regular court has adjudicated on the legality of the changes.

5. Critical benchmarks

We support the EU Commission`s reform ideas to ensure the seamless continuation of existing contracts referencing critical benchmarks, such as the London Interbank Offered Rate (LIBOR), if and when their continuity is at risk. The EU-Commission and the Competent authorities could be principally empowered with legal tools to modify the methodology (limited usefulness) and to set up a replacement benchmark, provided that the underlying economic reality measured by the (replacement) benchmarks remains generally the same after the relevant modification. However, the possibility to amend the methodology of critical benchmarks and the replacement rate by the EU-Commission and competent authorities should be carefully calibrated and activated only as matter of last resort. In such cases the EU-Commission/competent authorities should be provided with clear legal rules which are made transparent to the contributors, administrators and users of benchmarks (e.g. Asset Manager).

6. Methodology of benchmarks

The transparency of the methodology is not sufficiently addressed within the BMR in respect to supervised entities (e.g. fund management companies).

An index selected as a benchmark for an investment fund has to be inserted in the prospectus of the fund and full disclosure of the benchmark and its performance are required in the UCITS prospectus and KIID. This use of a single index for regulatory purposes by the asset manager can attract multiple license fee agreements as already mentioned above. It is not acceptable that regulatory requirements imposed on supervised entities result in profitable business opportunities for benchmark administrators, especially as already mentioned given the several layers of fees charged for the same index used by the same user.

Transparency on the setting of indices and benchmarks, including daily license and fee free publication ((see also point 5 above if fee free data provision may not be achieved, at least a price cap based on index data production cost is required) of the main features of public indices and benchmarks on a central official EU website will simultaneously achieve three important goals: limit the interest for and the possibility of market and other financial abuses by the providers of such products, promote investor confidence and avoid multiple pricing for the use of a single index by a user. This could proposal could be combined with the EU index family project envisaged by the Commission in order to further the EU#s CMU objectives in a very practical manner.

The transparency requirements should also incorporate the definition of the benchmark including its objective and the universe of the benchmark components and the basis on which they are selected. Also, in the case of periodic changes to composition, the rebalancing frequency, maximum/minimum weightings and names of the individual components should be included. Such requirements could be incorporated in the updated ESMA register or a dedicated (EU) index website.

Proposal: The administrator shall make available for all benchmarks their prices, values, rates, constituent or structure parts and the weightings on a ESMA website, including daily license and fee free publication and easy/user friendly access to information for all supervised entities. Such information needs be updated on a regular basis. ESMA shall develop regulatory technical standards on the scope of the data to be published and the design of the EU website.