

RESPONSE TO THE IOSCO'S CONSULTATIVE
REPORT ON
FINANCIAL BENCHMARKS

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Question	Answer
<p data-bbox="488 244 651 276">Question 1</p> <p data-bbox="188 284 949 651">Do you agree with the scope of the report and intended audience? Are there other Benchmarks or stakeholders that have idiosyncrasies that should place them outside of the scope of the report? Please describe each Benchmark or stakeholder and the idiosyncrasies that you identify and the reasons why in your view the Benchmark or stakeholder should be placed outside of the scope of the report.</p>	<p data-bbox="976 244 1809 276">The report adequately covered the intended audience.</p>
<p data-bbox="488 707 651 738">Question 2</p> <p data-bbox="188 778 949 898">Do you agree that the design of a Benchmark should clearly reflect the key characteristics of the underlying interest it seeks to measure?</p>	<p data-bbox="976 707 1856 1153">I strongly agree that the Benchmark should clearly reflect the characteristics or nature of the underlying interest it seeks to measure. For example the equity indices, which are intended to measure the performance of the market, but calculated based on full market capitalisation, do not perform its intended duty effectively because the size of the market (market capitalisation) does not translate to activity of the market. Instead activity related measures such as market liquidity may be used in the calculation of such benchmarks.</p>
<p data-bbox="495 1321 645 1353">Question 3</p>	<p data-bbox="976 1321 1856 1385">Measures Administrators may take to ensure integrity of the information includes;</p>

<p>What measures should Administrators take to ensure the integrity of information used in Benchmarking-setting and that the data is bona fide? Please highlight any additional measures required where Benchmarks are survey based. Please also comment on each of the factors identified in the discussion on the 'vulnerability of data inputs' such as voluntary submission, discretion exercised by Administrators. Are these measures adequately reflected in the discussion of roles and responsibilities of the Administrator discussed in section E?</p>	<ul style="list-style-type: none"> • Transparency on the methodology for calculating closing price. (Some markets take the last trading price of the day, other markets take a weighted average of the trading prices for the day etc). • Separating the duties of the submitter from that of the calculating agent (conflict of interest?) <p>Data from Survey based benchmarks must be subject to multiple checks before they are admitted or used in calculating the index.</p> <p>In terms of composition of the index, the eligibility criteria must be very transparent. The process of admitting new constituent and removing those that no longer qualify has to be clearly articulated. These must be made readily available to the end users of the benchmark.</p>
<p style="text-align: center;">Question 4</p> <p>What measures should Submitters implement to ensure the integrity of information provided to Administrators? Are these measures adequately reflected in the discussion of a code of conduct for Submitters discussed in section E? In particular, should Submitters submit all input data and not a selection of such data so as to maximise the representation of the underlying market? Please comment on any practical issues that compliance with such an approach may give rise to.</p>	<p>Measures Submitters may take to ensure integrity of the information includes;</p> <ul style="list-style-type: none"> • Having internal controls in relation to the production and submission of data; • Submitters must also have a policy which defines how the data is obtained <p>Submitters must submit all input data to the Calculating Agents. The calculating agents must take the responsibility of calculating the benchmark, within their policies and procedures.</p>
	<ul style="list-style-type: none"> • Having policies and procedures relating to the

<p style="text-align: center;">Question 5</p> <p>What level of granularity with regard to the transparency of Methodologies would enable users to assess the credibility, representativeness, relevance and suitability of a Benchmark on an on-going basis and its limitations with respect to their intended use? Relevant factors could include; criteria and procedures used to develop the Methodology, type of data used how data is collected, relative weighting of data used, how and when judgement is used, contingency measures (e.g., methods when transaction data is unavailable etc), publication of information supporting each Benchmark determination, etc. Please provide examples where you consider there are currently significant gaps in the provision of this information.</p>	<p>calculation of the benchmark and making them available to the users’.</p> <ul style="list-style-type: none"> • Having proper internal controls’ • Consulting the market/users on the methodology for calculating the benchmark; • Having regular reviews of the methodology and taking the users views in the process • Methodology must be approved by the regulator. <p>For example, in most market, the calculation of equity indices is undertaken solely by the exchange. There are no clear lines of demarcation between the submitter and the calculating agent. In most cases there is no transparency or consultation with the market regarding the calculation of the index. In this regards, the index may be subject to manipulation which may negatively affect the market integrity and investor confidence.</p>
<p style="text-align: center;">Question 6</p> <p>What steps should an Administrator take to disclose to Market Participants and other stakeholders the contingency measures it intends to use in conditions of market disruption, illiquidity or other stresses?</p>	<p>The Administrator should have a clear policy outlining what should be done in cases of market illiquidity and disruptions. The policy must be made available to the users and should be reviewed regularly;</p> <p>The policy must also be approved by the regulator.</p> <p>In an event of the market illiquidity and disruption, the Administrator should follow what is prescribed in the policy and report to both the users and the regulator within the prescribed time.</p>
<p style="text-align: center;">Question 7</p>	<p>This can be posted to the Administrators website and letter written to those that are on the mail list, first to inform them</p>

<p>What steps should an Administrator take to notify Market Participants of material changes to a Benchmark Methodology (including to Benchmark components) and to take their feedback into account?</p>	<p>and secondly to seek their opinion on the same.</p>
<p style="text-align: center;">Question 8</p> <p>How often should the Administrator review the design and definition of the Benchmark to ensure that it remains representative?</p>	<p>Generally a bench mark must be reviewed annually for purposes of making sure that it remains representative and relevant.</p>
<p style="text-align: center;">Question 9</p> <p>The Consultation Report discusses a number of potential conflicts of interest that may arise at the level of the Submitters, between Submitters at different entities, and between Submitters, Administrators and other third parties. Are there other types of conflicts of interest that have not been mentioned that you consider may arise? If so, how best should these conflicts of interest be addressed? Are the measures discussed in the Consultation Report sufficient to address potential conflicts of interests at the level of the Submitters, between Submitters at different entities, and between Submitters, Administrators and other third parties?</p>	<p>Some exchanges may exploit the conflict of interest that arises from their roles as both submitters and administrators. Naturally exchanges compete for both investors and issuers. The competition has recently been heightened by the globalisation which has made it easier for investors or issuers to go to any exchange in the world regardless of the geographical location. In this regards, exchanges may manipulate the benchmark, especially when the market is down, to reflect a better performance.</p> <p>This conflict of interest may be addressed by having proposer internal controls and formulating proper policies and procedures.</p>
<p style="text-align: center;">Question 10</p>	<p>An oversight committee is essential. Appointment to the committee must be subject to Regulatory approval (To safe</p>

<p>Do you agree that the Administrator should establish an oversight committee or other body to provide independent scrutiny of all relevant activities and management of conflicts of interest? Please comment if and why any different approaches might be appropriate for different kinds of Benchmarks. What is the minimum level of independent representation this committee or body should include?</p>	<p>guard the integrity of the market, approval by the regulator may include undergoing the fit and proper test).</p> <p>The committee should comprise of both representative from the users and independent people.</p>
<p style="text-align: center;">Question 11</p> <p>Should the Submitters establish accountability procedures to assess their compliance with operational standards and scrutiny of Benchmark submissions?</p>	<p>Yes, this is very important. It should be in the form of policy and procedures approved by both the oversight committee and the regulator.</p>
<p style="text-align: center;">Question 12</p> <p>Are the measures discussed in the Consultation Report (e.g. Audit Trail, external audits and requirement for regulatory cooperation) sufficient to ensure the accountability of Submitters? Should additional mechanisms be considered?</p>	<p>As indicated above, written policies and procedures.</p>
<p style="text-align: center;">Question 13</p> <p>How frequently should Submitters be subject to</p>	<p>Annual external Audits and internal audit as frequent as quarterly.</p>

audits? Should these be internal or external audits?	
<p style="text-align: center;">Question 14</p> <p>Are the measures discussed in the Consultation Report (e.g., complaints process, Audit Trail, external audits and requirement for regulatory cooperation) sufficient to ensure accountability of the Administrator? Should additional mechanisms be considered?</p>	<p>There should be a quarterly market review of the benchmark which should put pressure on the administrator to account for the fluctuations in the benchmark.</p>
<p style="text-align: center;">Question 15</p> <p>If recommended, how frequently should Administrators be subject to audits? Should these be internal or external audits?</p>	<p>Annual external Audits and internal audit as frequent as quarterly.</p>
<p style="text-align: center;">Question 16</p> <p>Is public self-certification of compliance with industry standards or an industry code another useful measure to support accountability? This approach might also contemplate explanation of why compliance may not have occurred. If so, what self-certification requirements would make this approach most reliable and useful to support market integrity?</p>	<p>Self certification of compliance may be useful. However, for it to be effective, it has to allow the reporting entity to state areas where they failed to comply and measures that they have put in place to ensure compliance in future. This needs to be closely monitored by the regulators</p>
<p style="text-align: center;">Question 17</p>	<ul style="list-style-type: none"> • Policy to be reviewed annually;

<p>The Consultation Report discusses elements of a code of conduct for Submitters. Are the measures discussed (e.g., adequate policies to verify submissions, record management policies that allow the Submitter to evidence how a particular submission was given, etc.) sufficient to address potential conflicts of interest identified or do you believe that other control framework principles should be added?</p>	<ul style="list-style-type: none"> • Board charter or a functional equivalent for the oversight committee showing, appointment and resignation procedures, frequency of the meetings etc; • Policy relating to the frequency of reporting the regulator 									
<p>Question 18 What would be the key differences in the code of conduct for Benchmarks based on different input types, for example transactions, committed quotes and/or expert judgement?</p>	<p>The key difference should be reflected in the treatment of the data source. For example if the data is sourced from unregulated entity, stringent measures must be put in place to safe guard the quality of data submitted.</p>									
<p>Question 19 What are the advantages and disadvantages of making Benchmark submissions a regulated activity?</p>	<table border="1"> <thead> <tr> <th data-bbox="972 868 1406 906">Advantages</th> <th data-bbox="1413 868 1852 906">Disadvantages</th> </tr> </thead> <tbody> <tr> <td data-bbox="972 906 1406 1134">Policy and procedures are adhered to</td> <td data-bbox="1413 906 1852 1134">Some decision needs to be taken promptly to avoid causing delays or stalling the market. Regulatory approval in this regard may not be helpful</td> </tr> <tr> <td data-bbox="972 1134 1406 1173">Market integrity preserved</td> <td data-bbox="1413 1134 1852 1173"></td> </tr> <tr> <td data-bbox="972 1173 1406 1211">conflict of interest managed</td> <td data-bbox="1413 1173 1852 1211"></td> </tr> </tbody> </table>	Advantages	Disadvantages	Policy and procedures are adhered to	Some decision needs to be taken promptly to avoid causing delays or stalling the market. Regulatory approval in this regard may not be helpful	Market integrity preserved		conflict of interest managed		
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<p>Question 20 What are the advantages and disadvantages of making Benchmark Administration a regulated activity?</p>	<p>See answer to question 19 above</p>									

<p style="text-align: center;">Question 21</p> <p>Do you agree with the factors identified for drawing regulatory distinctions? What other factors should be considered in determining the appropriate degree of oversight of Benchmark activities (discussed in Chapter 3)? Please provide specific recommendations as to how the distinctions discussed in Chapter 3 should inform oversight mechanisms.</p>	<p>In my view, benchmarks are generally the same. However they may be differences in the calculation, intended users, regulators, etc. In this regards, I will recommend a general regulation, which will where possible be followed by the specifics pertaining to each bechmark</p>
<p style="text-align: center;">Question 22</p> <p><i>What distinctions, if any, should be made with regard to Benchmarks created by third parties and those created by regulated exchanges?</i></p>	<p>Benchmarks created by third party must be subject to more stringent regulation as they originate from unregulated entities.</p>
<p style="text-align: center;">Question 23</p> <p>Assuming that some form of enhanced regulatory oversight will be applied to an asset class Benchmark, should such enhanced oversight be applied to the Submitters of data as well as the Administrator?</p>	<p style="text-align: center;">Yes</p>
<p style="text-align: center;">Question 24</p> <p>What are the considerations that should be taken into account if the Submitters to a Benchmark operate in</p>	<p>To encourage consistency in the calculation of the benchmark, the Administrator must sign an MoU or a legally binding agreement with submitters especially unregulated submitters</p>

<p>an otherwise unregulated market (e.g., physical oil, gold or agricultural commodity markets) and are not otherwise under any obligation to submit data to an Administrator?</p>	
<p style="text-align: center;">Question 25</p> <p>Do you believe that a code of conduct, either on its own or in conjunction with other measures outlined within the report, would provide sufficient oversight to mitigate the risks that have been identified in Chapter 2? What measures should be established in conjunction with a code of conduct? For which Benchmarks is this approach suitable?</p>	<p>Existence of the code of conduct does not guarantee compliance. It only acts as a reference point for both the entity and the regulator to measure compliance.</p> <p>Creation of criminal offence related to the manipulation of the bench mark and increasing enforcement powers of the regulator may also be helpful</p>
<p style="text-align: center;">Question 26</p> <p>What other measures outlined in the report, if any, should apply in addition to a code of conduct? If you believe a code of conduct, either on its own or in conjunction with other measures outlined within the report, would provide sufficient oversight to mitigate the risks that have been identified in Chapter 2, what type of code of conduct should apply (e.g., a voluntary code of conduct, an industry code of conduct submitted to and approved by the relevant Regulatory Authority, a code of conduct developed by IOSCO, etc.)?</p>	<p>To be more effective, the code of conduct to be applied must not be distinct, but must be a mixture of all the relevant codes. First, Self regulation is important because it puts pressure on the regulated entity to comply. IOSCO should come up with principles within which industries must create their codes, which will be approved by the regulator.</p>

<p style="text-align: center;">Question 27</p> <p>Do you believe that the creation of a Self-Regulatory Organisation (e.g., one that exercises delegated governmental powers) and itself subject to governmental oversight, whether or not in conjunction with industry codes is a viable alternative for sufficient oversight and enforcement to mitigate the risks that have been identified in Chapter 2? For which Benchmarks is this approach suitable? What if any complementary arrangements might be necessary, such as new statutory obligations or offences for Administrators and/or Submitters?</p>	<p>SRO are a good concept as long as they are structured properly to avoid regulatory arbitrage and/ or duplication of efforts between them and the governmental oversight.</p> <p>It is very important for SRO to sign an MoU with the regulator stating clearly the rule of each party.</p>
<p style="text-align: center;">Question 28</p> <p>Do you believe that, for some Benchmarks, reliance upon the power of securities and derivatives regulators to evaluate products that reference a Benchmark or exercise their market abuse or false reporting powers creates sufficient incentives for the Administrator to ensure sure that Submitters comply with a code of conduct?</p>	<p>yes</p>
<p style="text-align: center;">Question 29</p> <p>Do you believe that users of a Benchmark, specifically, the users who are regulated or under the supervision of a national competent authority should have a role in enhancing the quality of Benchmarks? Which form should this role take: on a voluntary basis (e.g. the user being issued a statement that will</p>	<p>Users should be involved on a voluntary basis, in the creation and reviews of the benchmark through consultations. Users will also, on their own, for purposes of marketing themselves, chose to use regulated or Benchmarks that fulfil IOSCO principles</p>

<p>only use Benchmarks that follow IOSCO principles), or on a compulsory basis (e.g., the competent authority could request that users who are registered under their jurisdiction should only use Benchmarks that fulfil IOSCO principles)?</p>	
<p>Question 30</p> <p>Do you agree that a Benchmark should be anchored by observable transactions entered into at arm's length between buyers and sellers in order for it to function as a credible indicator of prices, rates or index values? How should Benchmarks that are otherwise anchored by bona-fide transactions deal with periods of illiquidity due to market stress or long-term disruption?</p>	<p>Yes, Benchmark should be anchored by observable transactions entered into at arm's length between buyers and sellers.</p> <p>There have to be a approved policy, which have been created through market consultation, which prescribes how period of market disruptions and illiquidity in the market should be handled. These may includes, using the last price before market disruption, taking an week's, or month's average price etc.</p> <p>The Administrator may take the appropriate position and report to both the market and the regulator.</p>
<p>Question 31</p> <p>Are there specific Benchmarks for which you consider that observable transactional data is not an appropriate criterion or the sole criterion? If so, please provide a description of such Benchmarks and what value you think such Benchmarks provide?</p>	<p>none</p>
<p>Question 32</p> <p>What do you consider the limitations or value in</p>	<p>No comment</p>

<p>Benchmarks referencing asset classes and underlying interests where there is limited liquidity? Please describe the uses and value of such Benchmarks in the financial markets.</p>	
<p style="text-align: center;">Question 33</p> <p>Do you agree that the greatest weight should be given to transactions in the construction of a Benchmark and that non-transactional information should be used as an adjunct (e.r., as a supplement) to transactions?</p>	<p>Benchmarks generally measure the performance of the market. It is therefore more appropriate to take in to consideration the transaction instead of non- transaction data in constructing a benchmark. For example free float indices are more appropriate and relevant benchmarks to measure market performance compared to full market capitalisation indices.</p>
<p style="text-align: center;">Question 34</p> <p>What factors and how often should Administrators (or others) consider in determining whether the market for a current Benchmark's underlying interest is no longer sufficiently robust? What effective methods of review could aid in determining the insufficiency of trading activity within the market for a Benchmark's underlying interest?</p>	<p>Before the benchmark is replaced, we need to look at its relevance in the market. It is still widely used? Has the market moved to use alternative benchmarks? What are the characteristics of the alternative benchmarks being used?</p>
<p style="text-align: center;">Question 35</p> <p>What precautions by Benchmark Administrators, Submitters, and users can aid Benchmark resiliency</p>	<p>Following the code of conduct and reporting diversions</p>

<p>during periods of market stress, mitigating the potential need for market transition?</p>	
<p>Question 36 What elements of a Benchmark “living will,” drafted by a Benchmark Administrator, should be prioritised?</p>	<p>No comment</p>
<p>Question 37 By what process, and in consultation with what bodies, should alternatives be determined for Benchmark replacement?</p>	<p>Benchmark replacements must be done with proper consultation of the users and the regulator, following the IOSCO principle where applicable</p>
<p>Question 38 What characteristics should be considered when determining an appropriate alternate Benchmark? (Examples below) Should any of these factors be prioritised?</p>	<p>The most important thing to consider in the construction of a benchmark is the level of activity or performance of the market. Other factors will follow after that one.</p>
<p>Question 39 What conditions are necessary to ensure a smooth transition between market Benchmarks?</p>	<p>Proper consultation is key and making sure that the benchmarks will fit seamlessly on each other</p>
<p>Question 40 What considerations should be made for legacy contracts which reference a Benchmark in transition? To what extent does a substantive legacy book preclude transition away from a Benchmark? What provisions can be included in [new and existing]</p>	

<p>contract specifications which would mitigate concerns if and when a Benchmark transitions occurs?</p>	
<p style="text-align: center;">Question 41</p> <p>How should a timeframe be determined for market movement between a Benchmark and its replacement? What considerations should be made for:</p> <ul style="list-style-type: none"> o Altered regulatory oversight? o Infrastructure development/modification? o Revisions to currently established contracts referencing the previous Benchmark? o Revisions to the Benchmark Administrator? o Risk to contract frustration 	<p>The market shall be given reasonable time to adjust.</p>