

15 February 2013

European Securities Markets Authority (ESMA)
European Banking Authority (EBA)

For online submission at www.esma.europa.eu

Consultation Paper: Principles for Benchmarks-Setting Processes in the EU

Dear Sir / Madam

Please find attached the response by the Association for Financial Markets in Europe (AFME).

Yours faithfully

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Consultation response

ESMA/EBA Consultation Paper: Principles for Benchmarks-Setting Processes in the EU

15 February 2013

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the **Consultation Paper: Principles for Benchmarks-Setting Processes in the EU**.

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

AFME endorses the response by the Global Financial Markets Association (GFMA) which has been submitted separately. AFME members have provided significant input to the GFMA response and the set of Principles for Financial Benchmarks which the GFMA has developed in order to promote both the integrity and efficiency of the global financial markets. Indices and benchmarks are a topic of great importance to GFMA and AFME members.

We strongly believe that international and globally coordinated standards are needed to govern the issuance of financial benchmarks and welcome the efforts of the international regulatory community to examine this issue in order to promote integrity, trust and fairness in the financial services industry.

For ease of reference we have attached the GFMA response to this consultation. We would like to draw your attention to the following specific points:

- AFME supports the development of principles that would be supported by a regulatory framework, and agrees with a substantial majority of the proposed principles in the Consultation which closely align with many of the Principles which GFMA has developed. We strongly encourage a coordinated, global approach to any new policies in this area due to the global nature of the provision and use of many financial benchmarks.
- A broadly accepted set of best practice standards for conducting benchmark price assessment processes would serve to enhance confidence in such assessments and,

more generally, promote both the integrity and efficiency of the global financial markets. For this very reason, GFMA took the lead in both developing a robust set of Principles for Financial Benchmarks.

- The application of the Principles should be proportionate and adapted to the specifics of each benchmark, including its significance in the marketplace.
- AFME support the definitions that the Consultation has set out regarding the activities of benchmark settings, however, because the proposed definition of benchmark could be interpreted as overly broad, we support identifying some exemptions such as indices that are primarily used for purposes other than pricing financial instruments or contracts as well as customized indices used for pricing bespoke bilateral or similar transactions among a limited number of counterparties are excluded. Indices issued by public sector entities should also be out of scope.
- We do not support the proposal that “users” should be among the participants covered by the proposed principles as we believe that industry principles should apply to those entities that participate in the production or distribution of benchmarks with overall responsibility for any benchmark process ultimately resting with the sponsor. Nonetheless, it is important that the sponsors encourage input from stakeholders, including benchmark users, and develop governance structures and processes for receiving and evaluating such input. We also support principles such as those relating to transparency and governance that would provide users the means to make informed decisions regarding benchmarks.
- With regard to the Consultation’s recommendation that key benchmark participants certify their compliance with the principles (i.e., B.6, C.14, and D.6), we would suggest that the goal of compliance and integrity and confidence in the benchmark process can be alternatively achieved through a number of other means outlined in the GFMA principles. This could include the establishment of a strong governance structure by the sponsor, transparency over the benchmark process, an accountable governance body, a system of internal controls, independent review of the process and methodology, and appropriate documentation.
- In considering proposals on orderly benchmark transition, regulators should aim to minimize the impact on already issued financial instruments, particularly benchmarks that are extensively used. This could include international regulatory and industry cooperation, a preferably market-led transition protocol, and sufficient time for transitioning.

We would be happy to discuss any of the points raised in our response and look forward to continuing to engage with ESMA and EBA on this important topic.