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ESMA and EBA Final Report on Principles for Benchmark-Setting Processes in the EU

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TO: ICI GLOBAL EXCHANGE TRADED FUNDS COMMITTEE No. 10-13
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 13-13
ICI GLOBAL TRADING & MARKET STRUCTURE COMMITTEE No. 1-13 RE: ESMA AND EBA
FINAL REPORT ON PRINCIPLES FOR BENCHMARK-SETTING PROCESSES IN THE EU

On 6 June 2013, the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA) published “Principles for Benchmark-Setting Processes in the EU” [\[1\]](#) (“the Principles”) following the consultation paper they published on 11 January 2013 [\[2\]](#) to which ICI Global responded. [\[3\]](#)

The report that accompanies the Principles notes the ongoing cases into the alleged misconduct around the rate-setting of LIBOR, Euribor and other reference rates that have driven the “immediate interest” of ESMA and the EBA into these issues and thereby the publication of the Principles. The report also describes the broader international context of the work including the principles published by IOSCO. [\[4\]](#)

The report also summarises the feedback received by the ESMA and the EBA in response to their consultation paper. In general terms, many of the respondents supported an initiative on benchmarks for interbank lending but there were mixed opinions as to whether other types of benchmarks should be covered by a set of principles. Furthermore a number of comments were raised as to the precise scope of the principles.

Principles

Annex II of the report sets out the Principles that have been adopted by ESMA and the EBA. The Principles are organized under seven areas covering the following areas of the Benchmark process:

- Benchmark Data Submission,
- Benchmark Administration,

- Benchmark Calculation,
- Benchmark Publication,
- the use of Benchmarks, and
- the continuity of Benchmarks.

Under each area is a general principle and then supporting principles covering different aspects of the benchmark process or specific actors in that process (e.g. administrators, submitters etc). In total there are 57 elements comprising the Principles.

ESMA and the EBA plan to conduct a review of the application of the Principles eighteen months after their publication. The report notes that this timeframe may be altered if deemed appropriate or necessary. It is likely that this might be the case in the event of further work in the international or European arena concerning financial benchmarks.

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endnotes

[1] http://www.esma.europa.eu/system/files/2013-658_esma-eba_principles_for_benchmark-setting_processes_in_the_eu_-_final_report.pdf

[2] <http://www.esma.europa.eu/system/files/2013-12.pdf>

[3] http://www.iciglobal.org/pdf/13_icig_esma_benchmarks.pdf

[4] A summary of the IOSCO Principles for Financial Benchmarks was provided in Memo 27400 (available from <http://www.iciglobal.org/iciglobal/pubs/memos/ci.memo27400.global>)