

SWEDISH
SECURITIES DEALERS
ASSOCIATION

DG FISMA, Unit C3
European Commission

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Review of the Benchmark Regulation – Inception Impact Assessment

The Securities Dealers' Association (SSDA) and the Swedish Bankers' Association (SBA) welcome the opportunity to provide comments on the EU Commission's Inception Impact Assessment (**Impact Assessment**) for the review of Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (**BMR**).

We agree with the Commission that there is a need to amend the BMR to take into account the transition to alternative risk-free rates, as the transition from LIBOR is happening more quickly than was anticipated. There is also a significant risk that certain IBORs cease to be published before all legacy contracts have been amended, which needs to be addressed. As for issue 1 set out in the Impact Assessment, in order to give detailed comments, we would appreciate if the Commission could clarify what additional powers are needed. For example, would these powers include the authority to mandate benchmark contributors to continue their contributions towards legacy benchmarks even when successor benchmarks are in place, or does the Commission have something else in mind? We assume that the Commission will publish a more detailed consultation paper on this where market participants will be able to provide comments.

We also agree that the equivalence regime under the BMR is insufficient and that there needs to be a solution to the issues with third country benchmarks. If not, there is a risk that EU benchmark users could lose access to a number of non-EU benchmarks on which they depend. As is correctly pointed out in the Impact Assessment, a competitive disadvantage would occur if EU market participants are not able to use products referencing third country benchmarks that are used in jurisdictions outside of the EU.

With reference to issue 1 in the Impact Assessments, Art 21 of BMR on mandatory administration of a critical benchmark gives competent authorities of critical benchmarks the power to compel the administrator of the critical benchmark to continue publishing the benchmark. This is further detailed in ESMA's Consultation Paper Draft Regulatory Technical Standards under the Benchmarks Regulation that was published on 9 March 2020.¹ We would welcome if the Commission could liaise with ESMA to clarify if and how any measures taken to address issue 1 in the Impact Assessments will affect the rules on mandatory administration of a critical benchmark set out in section 5 of the Consultation Paper, as the two reports have been published almost in parallel.

Please do not hesitate to contact us if you have any questions or if there is anything you would like to discuss.

Your sincerely,

SWEDISH SECURITIES DEALERS ASSOCIATION

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¹ Consultation Paper, Draft Regulatory Technical Standards under the Benchmarks Regulation, (9 March 2020)(ESMA70-156-1464).