

ING feedback on the EBA/ESMA Consultation document on financial benchmarks

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About ING

ING is a global financial institution of Dutch origin, offering banking, investments, a variety of life insurance, non-life insurance and retirement services to meet the needs of a broad customer base. Going forward, we will concentrate on our position as an international retail, direct and commercial bank, while creating an optimal base for an independent future for our insurance and investment management operations.

With more than 93,000 employees, we serve over 66 million private, corporate and institutional customers in over 40 countries in Europe, North America and Latin America, Asia and Australia.

We draw on our experience and expertise, our commitment to excellent service and our global scale to meet the needs of a broad customer base, comprising individuals, families, small businesses, large corporations, institutions and governments.

Introduction

ING welcomes the opportunity given by EBA/ESMA to provide feedback on the consultation document on financial benchmarks. In reply to the EBA/ESMA consultation, please find below the input from ING. ING Bank Treasury is contributing to multiple benchmarks. Some of them imply solely transaction data input while others only require qualitative input. For the purpose of this exercise, ING has based its responses in Euribor and Eonia since they are the most important benchmarks in the euro area.

Principles

ING is of the opinion that any benchmark should adhere to the following principles:

1. A benchmark should be based on actual trade data to avoid subjectivity. Panel banks should only submit contributions when there is actual data. If insufficient actual trade data is available estimated data or extrapolation could be used. The responsibility of extrapolation should be done by the benchmark governing body. A strong governance framework should be in place to point out what submissions are based on actual trade data and what submissions are based on estimation / extrapolation.
2. A clear and unambiguous code of conduct should be available per benchmark. The code of conduct should contain clear definition of the submission criteria, detailed processes, responsibilities and controls.
3. Benchmarks should be governed and published by public institutions. Statutory regulation of benchmarks should be introduced to assure credible independent supervision, oversight and enforcement.
4. The panel composition is the responsibility of the governing body. The panel should be a true reflection of the underlying market. Clear criteria should be in place on the composition criteria for the panel.
5. Volumes should be taken into account in the individual submission of participants and in the calculation of the overall fixing. Calculations should be made computing contributions as weighted average of the transactions undertaken for the relevant benchmark.
6. The individual contribution (including volume) of participations should not be published to avoid reputational risk and manipulation. This is also the current practice for Eonia. Alternatively the publication of individual contributions should lag by a certain period (i.e. 90 days).
7. Governance for contributing banks needs to include robust processes and effective controls specifying concrete parameters to contribute rates. The controls should be part of internal processes and procedures and will be externally audited.

EBA/ESMA Consultation

Question 1: Definition of the activities of benchmark setting

Do you agree with the definitions provided in this section? Yes

Is this list of activities complete and accurate?

The definition of submitter or contributing bank is not included in the list of activities. Further guidelines in regards to the panel composition should be added and include the following:

- Criteria to qualify as submitter
- Criteria required to join the contribution panel
- Criteria to withdraw the contribution
- Measures to be taken by the Benchmark Administrator when a Submitter withdraws in order to avoid disruption of the benchmark

Question 2: Principles for benchmarks

Would you consider a set of principles a useful framework for guiding benchmark setting activities until a possible formal regulatory and supervisory framework has been established in the EU?

Yes, ING welcomes this initiative from EBA to provide further guidelines in the benchmark process during the transition period until regulation is in place.

Question 3: General principles for benchmarks

Do you agree with the principles cited in this section? Would you add or change any of the principles?

Yes, agree with the principles cited in this section. Please see some additions below.

In regards to the Governance structure (A.2) and Supervision (A3), ING believes that benchmarks should be governed and published by public institutions. Statutory regulation of benchmarks should be introduced to assure credible independent supervision, oversight and enforcement.

Regarding Continuity (A.5) of benchmarks, this principle refers to the contingency provisions for a drying-up of market liquidity. ING understands that benchmarks should be based on actual trade data to avoid subjectivity. If insufficient actual trade data is available, estimated data or extrapolation could be used. The responsibility of extrapolation should be done by the benchmark governing body.

Additionally, and to ensure continuity, ING believes that there should be clear statement about the panel composition. The panel should be a true reflection of the underlying market. Clear criteria should be in place on the composition for the panel. The composition of the panel and criteria should be reviewed periodically.

Question 4: Principles for firms involved in benchmark data submissions

Do you agree with the principles cited in this section? Would you add or change any of the principles? Agreed.

Question 5: Principles for benchmark administrators

Do you agree with the principles cited in this section? Would you add or change any of the principles? Yes, agree.

Question 6: Principles for benchmark calculation agents

Do you agree with the principles cited in this section? Would you add or change any of the principles?

Agree with the principles. Additionally, ING believes that the calculation agent should keep audit records of all contributions containing all relevant data i.e. time stamp, etc. Calculation agent should ensure that there is an appropriate technical contingency in place in case of technical failure.

Question 7: Principles for benchmark publishers

Do you agree with the principles cited in this section? Would add or change any of the principles? Yes, agree.

Question 8: Principles for users of benchmarks

Do you agree with the principles cited in this section? Would add or change any of the principles? Yes, agree.

Question 9: Practical application of the principles?

Are there any areas of benchmarks for which the above principles would be inadequate? If so, please provide details on the relevant benchmarks and the reasons for inadequacy. No, the principles are in line with ING principles submitted in this document.

Question 10: Continuity of benchmarks

Which principles/criteria would you consider necessary to be established for the continuity of benchmarks in case of a change to the framework?

In order to ensure a smooth transition, at least the involvement of the Administrator, users, Submitters and relevant regulatory authorities should be in place. Considerations to take into account during the transition period where measures may need to be in place:

- Regulatory structure for Benchmark oversight;
- Jurisdiction in civil and criminal enforcement authority over the submission, publication and review of the Benchmark;
- Transparent and clear communication to users of the benchmark that provides with sufficient knowledge to apply the new substitute rate for ongoing market needs. This information will allow users to revise legacy contracts referencing the prior Benchmark with minimal disruption for the parties involved;

Sufficient time should be provided to stakeholders to assess impact and take measures that do ensure a minimum disturbance for the benchmark end users.

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