

**MSCI RESPONSE TO THE CONSULTATION
PAPER ON FINANCIAL
BENCHMARKS/REGULATORY REFORM BY
THE COUNCIL OF FINANCIAL REGULATORS
(AUSTRALIA)**

MSCI

April 2016

MSCI appreciates the opportunity to comment on the CFR's Consultation Paper and we are available for any questions that the CFR may have.

ABOUT MSCI

MSCI Inc. is a leading provider of investment decision support tools to institutional investors globally, including asset managers, banks, hedge funds and pension funds. MSCI products and services include indexes and portfolio risk and performance analytics. MSCI is headquartered in New York, with research and commercial offices around the world. MSCI has over 6000 customers worldwide across MSCI's different business units.

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- broker dealers for providing trading execution services, creating OTC and non-OTC derivative financial products and writing research more generally;
- stock exchanges to create equity index linked futures and options contracts; and
- CCPs to calculate the risks of its positions for index linked futures and options contracts.

In both July 2014 and 2015, MSCI announced that it successfully completed an assurance review of its implementation of the IOSCO Principles for Financial Benchmarks and we are currently in the process of our 2016 assurance review. MSCI has engaged PricewaterhouseCoopers LLP (PwC) to perform the reviews. The full reports, including the PwC assurance review, are available at www.msci.com/products/indexes/regulation.html for MSCI equity indexes and select IPD real estate indexes and benchmarks.

MSCI COMMENTS

While we are not directly impacted by the CFR’s proposal, we would like to comment on a few of the questions, as provided below.

1	Do you have any comment on the proposed definition and scope of significant financial benchmarks?	<p>While we cannot comment on the other benchmark types referenced in the consultation paper, we do wish to comment on the potential designation of an equity benchmark as systemically important.</p> <p>We do not believe equity benchmarks should be categorized as systemically important for a number of reasons.</p> <p>Firstly, equity benchmarks are substitutable with reasonable alternatives available in the marketplace. Choice in the marketplace helps mitigate any systemic risk associated with reliance on individual benchmarks.</p> <p>Further, equity benchmarks are based on stock exchange prices and the issues raised with respect estimates/submission data do not apply with respect to stock exchange prices.</p> <p>Finally, we believe it’s worth noting that other jurisdictions (including the EU which is pursuing the broadest benchmark regulation) have not chosen to designate equity benchmarks as critical or systemically important.</p>
2	Do you have a view on whether major equity indices such as the ASX200 should be Subject to regulation as significant benchmarks?	Please see above.
4	Do you have any comment on the proposed mechanism for designating the scope of Regulation?	The UK has taken the approach to regulate specific, listed benchmarks. We believe that the UK’s approach is a reasonable and preferred approach. Because of the fundamental differences in benchmarks, what works for one may not work for another and may even threaten its viability. By regulating individual benchmarks, specific issues can be addressed without creating unintended consequences by bluntly applying ill-fitting

		regulation across benchmark types. Because benchmarks create and facilitate transparency, impacting the viability of legitimate benchmarks, can actually result in less transparency in the marketplace.
5	Which means of imposing the IOSCO Principles as a requirement of benchmark administration would you favour among the options identified, and why?	Whichever option is chosen, we believe that it is key to preserve the proportionality regime in the IOSCO Principles. The “comply and explain” mechanism is the reason that the IOSCO Principles work. Because of the fundamental differences across benchmark types, a “one-size fits all” approach does not work. Removing the “comply or explain” mechanism turns IOSCO into a “one-size fits all” approach, which is the complete opposite of what IOSCO intended.
7	Among the options presented, which option do you prefer for regulating benchmark submission, and why?	It should be clear that equity benchmarks are excluded from the code of conduct requirements because they are not based on “submissions”. That was the clear intent of IOSCO and that is the approach of the EU benchmark regulation.
8	Do you consider that benchmark administrators would be able to effectively regulate submitters via a Submitter Code of Conduct?	Benchmark administrators should not be tasked with regulating submitters because it requires benchmark administrators to perform a quasi-regulatory function, without the regulatory or legal authority to do so. Again, with respect to equity benchmarks, we believe that it should be clear that they are excluded from the code of conduct requirements because they are not based on “submissions”. That was the intent of IOSCO and that is the approach of the EU benchmark regulation.

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