

Benchmarks in financial instruments

A benchmark is an index (statistical measure), calculated from a representative set of underlying data, which is used as a reference for financial instruments or contracts. Well-known benchmarks include the London Interbank Offered Rate (LIBOR) and the Euro Interbank Offered Rate (EURIBOR). The manipulation of those two benchmarks has sparked concerns about the integrity of benchmarks worldwide. The European Parliament is due to vote on the Commission's proposal for a regulation on indices used as benchmarks in financial instruments and financial contracts.

Background

The pricing of many financial instruments and financial contracts depends on the accuracy and integrity of benchmarks, published by a benchmark administrator – the legal person or entity responsible for the establishment, design, production and dissemination of a benchmark and for the collection of the input data based on which the benchmark is calculated. The Commission sees it as important to target all benchmarks in the EU. Cases of [manipulation](#) of different benchmarks, e.g. interest-rate benchmarks such as [LIBOR](#) and [EURIBOR](#), have demonstrated that they may be vulnerable to [abuse](#). Failures in the accuracy and integrity of indices used as benchmarks may undermine market confidence, cause losses to consumers and investors and distort the real economy. The Commission's 2013 proposal for a [regulation](#) would create a common EU framework, to ensure the accuracy, robustness and integrity of benchmarks and the benchmark-setting process. This is to be achieved by ensuring that administrators of benchmarks are subject to prior authorisation and on-going supervision; improving their governance and requiring greater transparency of how a benchmark is produced; and ensuring the appropriate supervision of so-called critical benchmarks.

The International Organization of Securities Commissions (IOSCO) has agreed [principles on benchmarks](#), and a [review of their implementation](#) was published in February this year. However, these principles leave flexibility as to the scope and means of their implementation and in relation to certain terms.

European Parliament

On 31 March 2015, the Economic and Monetary Affairs (ECON) Committee adopted its first-reading [report](#) on the proposal (rapporteur Cora Van Nieuwenhuizen, ALDE, the Netherlands). The Committee makes a clear distinction between critical, or systemically important, and less critical benchmarks, aiming to limit the workload for administrators of smaller indices. It wants a lighter regime to apply to administrators of non-critical benchmarks. Moreover, commodity benchmarks would also be exempt from certain requirements, in line with the IOSCO principles. Critical benchmarks tracking a large volume of trade will have to be authorised by a competent authority in a Member State, while non-critical benchmarks would have to be registered with such an authority. The European Securities and Markets Authority (ESMA) would have an enhanced role with regard to critical benchmarks. Such benchmarks would be overseen by a college of national supervisors, led by ESMA. Benchmarks provided by an administrator located in a third country may be used by supervised entities in the EU, once the Commission has decided on their equivalence. However, until such equivalence is granted, benchmarks provided by an administrator located in a third country may be used by supervised entities in the Union, provided that the administrator acquires prior recognition from ESMA or an endorsement from an administrator located in the Union. As part of regular review of the legislation, ECON calls on the Commission to review the evolution of international principles and to submit a report to the EP and to the Council four years after the date of the entry into force of the regulation and every four years thereafter, accompanied by a legislative proposal, if appropriate.

The EP's Ex-Ante Impact Assessment unit, in its [initial appraisal](#) of the Commission's [impact assessment](#) (IA) of the proposal, concluded that the IA could be considered a useful tool for political decision-makers.