

**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**Regulatory Framework for Index Providers**

**1.0 Objective**

To solicit the comments / views from market participants on the proposed regulatory framework for Index Providers with the objective of furthering transparency and accountability in governance and administration of the financial benchmarks / indices in the Indian securities market.

**2.0 Background**

2.1. In stock market, an index is essentially a method of measuring a change in value of a group of securities forming part of such index. An index performs several functions such as assisting the investors in understanding the health of the market and also enabling them to study the market sentiment, enabling performance measurement, benchmarking etc.

2.2. There are several indices that are linked to creation of financial products such as exchange traded derivatives, index funds, exchange traded funds (ETFs) and market linked debentures etc. Indices are also used as benchmark for actively managed mutual funds. It is generally seen that the broad market indices are a yard stick to measure performance of actively managed funds as the same are constructed to represent the performance of large universe of companies traded on an exchange (domestic or foreign).

2.3. In addition to the broad market indices, there are customized indices (also known as bespoke indices) that are explicitly designed and created at the request of fund managers and tracked by them. Bespoke indices designed at the request of fund managers/ institutional investors do not track broad market but endeavor to track a group of firms from a particular sector or industry or firms with some specific features.

2.4. Thus, there exists a continuum of indices. While at one end are the broad market indices that reflect the general health and performance of the market and are tracked as benchmark by the actively managed mutual funds, the other end comprises of specific purpose or customized or bespoke indices<sup>1</sup>.

2.5. As a result of investigations and enforcement actions by regulators due to manipulation of major interest rate benchmarks in 2012, there were serious concerns regarding the integrity of benchmark administration process and this impacted the market confidence negatively. Against this backdrop, the International Organization of Securities Commissions (IOSCO) prescribed an overarching framework of 'Principles for Financial Benchmarks' to promote the reliability of benchmark (including indices) determinations, and address benchmark governance, quality and accountability mechanisms. A summary of IOSCO Principles is placed at **Annexure-A**.

2.6. Another trend that has emerged over the past few years is the growing dominance of Index Providers due to proliferation of passive investment schemes driving capital flows towards assets that constitute a particular market index. It is noteworthy that the passive mutual fund schemes have witnessed exponential growth since 2015. The passive schemes merely seek to mimic the performance of an index without requiring any effort on part of the fund manager. In effect, it is the ability of the index provider to construct such indices to cater to needs of any user which attracts the fund managers to place mandates for such indices and this de-facto drives volumes in passive investment schemes.

2.7. Currently, the benchmarks (based on which products are traded on the Indian stock exchange platforms) and indices tracked by the fund managers are owned and managed by entities which are generally either subsidiaries of stock exchanges or joint venture between an exchange & an Index

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<sup>1</sup> SEBI circular dated October 27, 2021 provides for first tier and second tier benchmarks for certain categories of mutual fund schemes. Certain schemes provide for bespoke indices as second tier benchmarks. Further, SEBI circular dated May 23, 2022 (on Development of Passive Funds), stipulates AMFI to notify a list of debt indices for launch of debt ETFs/ Index Funds.

Provider or any entity/group engaged in the activity of credit rating. SEBI had allowed the stock exchanges to introduce derivative products on foreign indices in January 2011. Further, there could also be indices designed by the foreign index providers that are currently tracked by the fund managers in India. More than 200 passive products (ETFs/Index Funds) have been introduced in Indian capital markets as compared to 8 products in 2008. The net-inflows and assets under management of the Indian Passive Investment Industry are tabulated as under;

**Total Net Inflows (Rs. Cr)**

Period	FY 22-23 (April 1, 2022 to Nov 30, 2022)	FY 21-22	FY 20-21	FY 19-20
ETFs	52,749	80,849	39,820	59,809
Index Funds	49,648	44,759	4,579	5017
Total Net Inflows (excluding inflows into Gold)	1,02,397	1,25,608	44,399	64,826

Source: AMFI and ICRA online

**Passive Industry AUM (Rs. Cr)**

As on	November 30, 2022	March 31, 2022	March 31, 2021
ETFs	4,99,996	4,10,585	2,75,931
Index Funds	1,23,711	68,676	19,164
Total AUM (excluding inflows into Gold and Silver)	6,23,708	4,79,261	2,95,095

Source: AMFI and ICRA online

2.8. The list of prominent indices that are tracked by domestic AMCs for issuance of ETFs/Index Funds are tabulated in **Annexure -B**.

- 2.9. The index providers disclose the methodology of index construction on their websites and there is an element of transparency. However, it is still possible to exercise discretion through changes in methodology resulting in exclusion or inclusion of a stock in the index or change in the weights of the constituent stocks. This has a significant impact on the return of the index funds. Thus, it can be implied that the role of stock selection being performed by the fund managers of index funds appears to have been delegated to the Index Providers to a certain degree. Inclusion or exclusion of a stock in the index may also have an impact on volume, liquidity and price of the stock.
- 2.10. There exists a possibility of conflict of interest arising in the governance and administration of indices / benchmarks due to presence of an element of discretion in management of indices including rebalancing of the index, in methodology adopted for construction of index including selection of stocks and in licensing of such indices. Conflict of interest could also arise as index administrators may not fully implement policies to ensure protection of sensitive information (e.g.; information regarding inclusion or exclusion of a particular stock from index could be misused).
- 2.11. Given the varied functions which an index serves, it is essential that it is reliable, its construction and modification is transparent, its management is subject to adequate governance and accountability mechanisms, etc. However, Index Providers remain outside the regulatory purview of SEBI.
- 2.12. In light of the concerns highlighted at para 2.5, 2.6, 2.9, 2.10, 2.11, and the 'Principles for Financial Benchmarks' laid down by IOSCO, SEBI with the objective of filling the regulatory vacuum in the benchmark administration space, published a consultation paper in May 2017 on 'Code of Conduct for Index Providers' and another in December 2020 on 'Compliance Standards for Index Providers'. The codes and standards proposed for Index Providers in the abovementioned consultation papers were mainly based on IOSCO's 'Principles for Financial Benchmarks'.

### 3.0 **Overview of global regulatory scenario**

Overall, governments and policy makers around the globe rely on the IOSCO Principles and/or existing laws to mitigate manipulation and vulnerability issues pertaining to benchmarks and benchmark administrators. Currently, the EU is the only jurisdiction to pass broad legislation for financial benchmarks. An overview of various regulations and principles adopted across the globe is placed at **Annexure C**.

### 4.0 **Proposed Regulatory Framework**

The Secondary Market Advisory Committee (SMAC) in its meeting held on April 21, 2022, deliberated on the matter and considering the complexity and sensitivity involved in framing regulatory structure for index providers, recommended the constitution of a working group for devising a framework for regulation of Index Providers.

5.0 In order to finalize the structure and design of the framework, a working group comprising of index providers, stock exchanges, mutual fund AMCs and experts in the domain was constituted in May 2022. The working group considered the response received from various stakeholders in response to consultation papers earlier issued by SEBI in the year 2017 and 2020 and made recommendations. The recommendations of the working group were also placed before Secondary Market Advisory Committee (SMAC) in July 2022. Based on the recommendations of the working group and the deliberations of SMAC, a regulatory framework for registering and regulating index providers is being envisaged. Salient features of the proposed regulatory framework are as follows:

- a) A regulatory framework for index providers shall mandate adherence to IOSCO Principles. Further, regulations for Index Providers shall prescribe provisions to ensure *inter-alia*, eligibility criterion, compliance, disclosures, periodic audits, and penal action in case of non-compliance/incorrect disclosures.
- b) The proposed regulation shall be applicable to index providers (both domestic and foreign) if the users of the index/products based on index are located in India. Thus, the litmus test to decide whether the Index

Provider is required to take registration from SEBI depends upon the usage of indices by Indian investors either for benchmarking purposes or for issuance of passive products or for trading of derivative products based on indices on the stock exchanges or any other product based on index. However, if the users of index for benchmarking or issuance of passive products are located outside India, the regulation shall not be applicable. As seen in the matrix given below, the categories 2 and 5 shall remain outside the ambit of the proposed regulatory framework.

<b>Category</b>	<b>Location of Index Provider</b>	<b>Asset Class in securities market</b>	<b>Location of Index User</b>	<b>Applicability of Regulations</b>
1	India	Indian	India	Yes
2	India	Indian	Outside India	No
3	India	Global	India	Yes
4	Outside India	Indian	India	Yes
5	Outside India	Indian	Outside India	No
6	Outside India	Global	India	Yes

*(Besides, indices/products based on unregulated asset classes (for e.g.; crypto assets) shall be outside the purview of proposed regulatory framework).*

- c) Accordingly, the Index providers offering indices for use in India shall be required to register with SEBI for obtaining authorization for introduction of indices in India. Benchmark Administrators providing Significant Benchmarks notified by Reserve Bank of India under Financial Benchmark (Reserve Bank) Directions, 2019 shall be excluded from registration requirement under the proposed framework (e.g. MIBOR, MIFOR, USD/INR Reference Rate etc.).
- d) The index provider shall be a legal entity incorporated under Companies Act in the country of origin. Independent professionals (individual or group of persons) providing index/benchmark services shall be considered ineligible.

- e) Index Provider shall have minimum net worth of Rs.250 million (Rs.25 crore).
- f) Index Provider shall have a track record of minimum 5 years of index administration. Alternatively, any entity may also be eligible for registration as an Index Provider, provided it has in employment at least two persons with each having minimum 5 years of experience to conduct the operations and business of Index Provider.
- g) Index Provider shall constitute an oversight committee for reviewing existing index design. The oversight committee shall also review any proposed changes to benchmark methodology and examine whether the methodology appropriately reflects the nomenclature and description of the index (true to label) and to oversee results of audit and implementation of audit observations.
- h) Index provider shall have policies and procedures to manage conflicts of interest and to protect the integrity and independence of various functions performed in connection with determination of indices. Index provider shall have policies to prevent personal interest and business connections from compromising the performance of functions and shall have in place effective procedures to control exchange of information among the staff engaged in activities involving potential risks of conflict of interest. The policy to address conflict of interest shall deploy a Chinese wall and include specific ways to protect sensitive information. The policy shall also provide for pre-trade clearances for staff/ personnel involved in index creation/ maintenance.
- i) In case an Index Provider is engaged in any other activity, the activity of Index Provider in general and the benchmark determination process in particular shall be completely ring-fenced to prevent sharing/leakage of any sensitive information which may be exploited towards furthering the commercial interest of the other activity of the entity.

- j) Index Provider shall maintain the quality of index while designing the index by ensuring the factors which represent the interest that index seeks to measure are included and any factors that result in distortion of price, rate or value are eliminated. Further, to calculate an index, factors such as availability and sufficiency of data shall be considered
- k) Due-diligence on data submitters shall be performed by index providers and a code of conduct for data submitters covering quality, oversight, conflict of interest, record keeping etc. shall be put in place. Further, in order to protect the integrity of data and as a result, the reliability and accuracy of the benchmark determination process, the Index Provider shall be required to ensure that the data contributor(s)/submitter(s) shall source data only from the regulated entities.
- l) Index provider shall document and make available publicly, the methodology for index calculation.
- m) The Index Providers shall be assessed by independent external auditors to evaluate adherence to IOSCO principles once in 2 years. However, the first assessment shall be carried out within one year of the grant of registration by SEBI. In case an existing Index Provider has been assessed for IOSCO Compliance within past one year, next assessment by independent external auditors shall be carried within 2 years from the last assessment.
- n) Further, relevant documents, audit trails etc. shall be made readily available to SEBI. This is intended to facilitate SEBI's ability to access information that might be needed to determine the reliability of a given benchmark determination or to access information that might be needed to investigate misconduct.
- o) In the event, SEBI determines any adverse findings about administration of such indices and/ or non-adherence to any of the stated principles, SEBI at its sole discretion will have the right to take appropriate action



/direction as provided under SEBI Act, 1992; and SEBI (Intermediaries) Regulations, 2008.

- p) The index provider shall mandatorily have in place grievance redressal mechanism including facility for online arbitration between the Index Provider and the customer/client.

6.0 While it is desirable to have a framework for index providers in Indian securities market, it is imperative that the views of various stakeholders are considered while finalising the structure and design of the regulatory regime. In view of the above, comments are solicited from the public on the above proposal discussed under point 5(a) to 5(p).

### **7.0 Public Comments**

The comments may be sent by e-mail to Shri Vishal Shukla (vishals@sebi.gov.in) and Shri Anuvash Nigam (anuvashn@sebi.gov.in) latest by January 27, 2023 in the format below:

Details of respondent				
Name of the person/ entity				
Contact details				
Category:		whether market intermediary/ participant (mention type/ category) or public (investor, academician etc.)		
S. No.	Extract from Consultation Paper	Issues (with page/para nos., if applicable)	Suggestions	Rationale

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## **Summary of IOSCO Principles for Financial Benchmarks**

IOSCO Principles primarily aim at establishing appropriate benchmark governance, mitigate conflicts of interest and promote transparency of benchmark design and methodology. The 19 Principles are covering various aspects of benchmark administration are enumerated as follows: -

### **Governance**

#### **1. Overall responsibility of the Administrator:**

The Benchmark Administrator shall be responsible for ensuring integrity of all the aspects of benchmark determination process.

#### **2. Oversight of Third Parties:**

When the benchmark determination process is undertaken by parties other than the Administrator (for e.g. Calculation Agent or Publisher of the Benchmark), there shall be in place an appropriate framework to monitor such third parties' activities with the objective of complying with this framework. The framework should include clearly defined written arrangements setting out the roles and obligations of the parties involved.

#### **3. Conflicts of Interest for Administrators:**

Policies and procedures for identification of conflict of interest, disclosure, management and avoidance of conflict of interests. This principle is intended to address the vulnerabilities that create incentives for Benchmark manipulation.

#### **4. Control Framework for Administrators:**

An appropriate control framework which is documented, readily available to Regulatory Authorities, stakeholders must be put in place for the process of determining and distributing the Benchmark, which should be appropriately tailored to the materiality of the potential or existing conflicts of interest identified, and to the nature of Benchmark inputs and outputs. The control framework should include an effective whistleblowing mechanism in order to facilitate early awareness of potential misconduct.

#### **5. Internal Oversight:**

An Oversight Committee or other appropriate governance arrangement distinct from direct day-to-day process of benchmark administration to review

all aspects of benchmark determination process to provide effective oversight of the Administrator.

### **Quality of the Benchmark**

**6. Benchmark Design:**

Taking into account all relevant factors that make benchmark reliable and not result in distortion of price, rate or value of the benchmark.

**7. Data Sufficiency:**

Ensure sufficient data is available to represent the interest measured by Benchmark.

**8. Hierarchy of Data Inputs:**

Establishment of clear guidelines regarding the hierarchy of data inputs and the exercise of Expert Judgement used for the determination of Benchmarks.

**9. Transparency of Benchmark Determinations:**

Methodology documents should be publicly available to facilitate an understanding of how the benchmark seeks to measure the interest and how the it is calculated and maintained. Benchmarks that regularly publish their Methodologies would satisfy principle 9 when derived from data sourced from Regulated Markets or Exchanges with mandatory post-trade transparency requirements

**10. Periodic Review**

The periodic review by the Administrator of the conditions in the underlying Interest that the Benchmark measures to determine whether the Interest has undergone structural changes that might require changes to the design of the Methodology. In order to facilitate Stakeholders' understanding of the viability of a Benchmark, a summary of such reviews should be published or made available when material revisions have been made to a Benchmark, including the rationale for the revisions.

### **Quality of the Methodology**

**11. Content of the Methodology:**

The documentation and publication of the Methodology used to make Benchmark determinations, with sufficient detail to allow Stakeholders to understand how the Benchmark is derived and to assess its

representativeness, its relevance to particular Stakeholders, and its appropriateness as a reference for financial instruments.

**12. Changes to the Methodology:**

The publication of the rationale of any proposed material change in its Methodology, and procedures for making such changes defining what constitutes a material change, and the method and timing for consulting or notifying Subscribers of changes.

**13. Transition:**

Clearly written policies and procedures to address the need for possible cessation of an Index. The Index Provider, if feasible, should also provide an alternative Index within a reasonable timeframe.

**14. Submitter Code of Conduct:**

The development of guidelines for Submitters ("Submitter Code of Conduct, which should be available to any relevant Regulatory Authorities and Published or Made Available to Stakeholders)

**15. Internal Controls over Data Collection:**

Appropriate internal controls over the Administrator's data collection and transmission processes – when an Administrator collects data directly from a Regulated Market, Exchange or other data aggregator, which address the process for selecting the source, collecting the data and protecting the integrity and confidentiality of the data.

**Accountability**

**16. Complaints Procedure:**

The establishment and publication of a written complaints policy by which stakeholders may submit complaints concerning whether a specific benchmark determination is representative of the underlying Interest it seeks to measure, application of the Methodology to a specific Benchmark determination and other Administrator decisions in relation to a Benchmark determination. This Principle is intended to promote the reliability of Benchmark determinations through Stakeholder input and alert Market Authorities to possible factors that might affect the reliability of determinations.

**17. Audits:**

The appointment of an independent internal or external auditor with appropriate experience and capability to periodically review and report on the Administrator's adherence to its stated criteria and the requirements of the Principles. The frequency of audits should be proportionate to the size and complexity of the Administrator's operations.

**18. Audit Trail:**

The retention of written records by the Administrator for five years, subject to applicable national legal or regulatory requirements. This Principle is intended to safeguard necessary documents for Audits.

**19. Cooperation with Regulatory Authorities**

Relevant documents, Audit Trails and other documents addressed by these Principles shall be made readily available by the relevant parties to the relevant Regulatory Authorities in carrying out their regulatory or supervisory duties and handed over promptly upon request. This is intended to facilitate a Regulatory Authority's ability to access information that might be needed to determine the reliability of a given Benchmark determination or to access information that might be needed to investigate misconduct

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## ANNEXURE B

### List of Indices tracked by Exchanged Traded Funds (ETFs) in India:

S No	Index	Segment
1	NIFTY 50	Equity
2	S&P BSE SENSEX	Equity
3	S&P BSE 500	
4	NIFTY Bank	Equity
5	NIFTY CPSE	Equity
6	NIFTY Next 50	Equity
7	S&P BSE SENSEX Next 50	
8	NIFTY Private Bank	Equity
9	NIFTY 100	Equity
10	S&P BSE 100	Equity
11	NIFTY IT	Equity
12	NIFTY Midcap 150	Equity
13	S&P BSE MidCap Select Index	Equity
14	S&P BSE Liquid Rate Index	Equity
15	NIFTY 100 Low Volatility 30	Equity
16	S&P BSE Low Volatility	Equity
17	Nifty 100 ESG Sector Leaders	Equity
18	NIFTY PSU Bank	Equity
19	S&P BSE Bharat 22 Index	Equity
20	NIFTY 50 Value 20	Equity
21	NIFTY HEALTHCARE	Equity
22	NIFTY Midcap 100	Equity
23	Nifty Alpha Low-Volatility 30	Equity
24	Nifty Financial Services	Equity
25	NIFTY 200 Quality 30	Equity
26	NIFTY India Consumption	Equity
27	NIFTY Infrastructure	Equity
28	NIFTY 50 Shariah	Equity
29	NIFTY Dividend Opportunities 50	Equity
30	Nifty Pharma	Equity
31	Nifty 50 Equal Weight	Equity
32	Nifty FMCG	Equity
33	Nifty Alpha 50	Equity
34	NIFTY Midcap150 Quality 50	Equity
35	Nifty Midcap 50	Equity
36	Nifty India Manufacturing	Equity
37	Nifty Auto	Equity
38	Nifty 200 Momentum 30	Equity
39	Nifty India Digital	Equity
40	Nifty BHARAT Bond Index - April 2030	Debt
41	Nifty BHARAT Bond Index - April 2031	Debt
42	Nifty BHARAT Bond Index - April 2025	Debt
43	Nifty BHARAT Bond Index April 2032	Debt
44	Nifty BHARAT Bond Index - April 2023	Debt

45	NIFTY 1D Rate Index	Debt
46	Nifty CPSE Bond Plus SDL Sep 2024 50:50 Index	Debt
47	NIFTY 8-13 yr G-Sec Index	Debt
48	Nifty SDL Apr 2026 Top 20 Equal Weight Index	Debt
49	Nifty AAA Bond Plus SDL Apr 2026 50:50 Index	Debt
50	Nifty 5 yr Benchmark G-Sec Index - TRI	Debt
51	NIFTY 10 yr Benchmark G-Sec Index	Debt

**List of Foreign Indices tracked by ETFs:**

S No	Index	Segment
1	Nasdaq 100	Equity
2	Hang Seng TRI	Equity
3	NYSE FANG+ TRI	Equity
4	S&P 500 TOP 50 TRI	Equity
5	NASDAQ Q-50	Equity
6	Hang Seng TECH	Equity

**List of Indices tracked by Index Funds in India:**

S No	Index	Segment
1	NIFTY 50	Equity
2	S&P BSE SENSEX	Equity
3	S&P BSE Low Volatility Index	Equity
4	NIFTY NEXT 50	Equity
5	Nifty 200 Momentum 30	Equity
6	NIFTY Midcap 150	Equity
7	Nifty 50 Equal Weight	Equity
8	Nifty 100	Equity
9	NIFTY SMALLCAP 250	Equity
10	Nifty 500	Equity
11	Nifty Bank	Equity
12	Nifty 50 Value 20	Equity
13	NIFTY 100 EQUAL WEIGHT	Equity
14	NIFTY Midcap150 Quality 50	Equity
15	NIFTY Smallcap 50	Equity
16	NIFTY Large Midcap 250	Equity
17	Nifty Midcap 50	Equity
18	Nifty 100 Quality 30	Equity
19	Nifty PSU Bond Plus SDL Apr 2026 50:50 Index	Debt
20	Nifty SDL Plus PSU Bond Sep 2026 60:40 Index	Debt
21	Nifty CPSE Bond Plus SDL Sep 2026 50:50 Index*	Debt
22	NIFTY PSU BOND PLUS SDL SEP 2027 40:60 Index	Debt
23	Nifty PSU Bond Plus SDL Apr 2027 50:50 Index	Debt
24	Nifty SDL Apr 2027 Index*	Debt
25	Nifty SDL Apr 2027 Top 12 Equal Weight Index	Debt
26	Nifty SDL Sept 2027 Index*	Debt
27	Nifty AAA CPSE Bond Plus SDL Apr 2027 60:40 Index*	Debt

28	Nifty SDL Plus G-Sec Jun 2028 30:70 Index*	Debt
29	Nifty SDL Jun 2027 Index*	Debt
30	Nifty SDL Plus AAA PSU Bond Dec 2027 60: 40 Index*	Debt
31	Nifty SDL Apr 2032 Top 12 Equal Weight Index	Debt

**Other Indices tracked by Index Funds:**

<b>S No</b>	<b>Index</b>	<b>Segment</b>
1	S&P 500	Equity
2	Nasdaq 100	Equity
3	MSCI India Domestic & World Healthcare 45 Index	Equity
4	MSCI EAFE Top 100 Select Index	Equity
5	CRISIL Gilt 2027 Index	Debt
6	CRISIL IBX 50:50 Gilt Plus SDL - April 2028	Debt
7	CRISIL Gilt 2028 Index	Debt
8	CRISIL IBX 60:40 SDL + AAA PSU Index - April 2027	Debt
9	CRISIL IBX SDL Index May 2027	Debt
10	CRISIL IBX 70:30 CPSE Plus SDL - April 2025	Debt
11	CRISIL IBX 50:50 PSU + SDL Index Æ October 2025	Debt
12	CRISIL IBX AAA Index June 2023	Debt



## **ANNEXURE C**

### **Global Scenario**

#### **European Union (EU)**

- Regulation (EU) 2016/1011 passed into law on 30 June 2016 (EU BMR). The EU BMR aims to ensure benchmarks are robust and reliable, and to minimize conflicts of interest in benchmark-setting processes. It contains requirements for benchmark administrators, contributors of input data to benchmarks and users of benchmarks.
- The requirements of the EU BMR are similar to the IOSCO Principles; however, it is binding legislation. Administrators (EU and non-EU) of benchmarks that fall within the scope of the EU regulation are required to apply to their EU regulator to provide such benchmark in the EU.
- The EU BMR also applies to non-EU benchmarks (i.e. if a benchmark is used in the EU but provided by a company based outside of the EU). Non-EU benchmark administrators have until 31/12/23 before they need to meet the requirements of the EU BMR. This means if a non-EU benchmark administrator does not meet the requirements of the EU BMR by 31/12/23, EU users will not be able to use the relevant benchmark.
- The provisions of the IOSCO Principles and the EU BMR in relation to the oversight function and mitigation of conflicts of interest are very similar.
- As of the date of this document, the EU has granted two equivalence decisions under Article 30 of the EU BMR: for Australia (Australian Bank Bill Swap Rate) and Singapore (Singapore Interbank Offered Rate and Singapore Swap Offer Rate).
- The EU BMR provides for a third country regimes: equivalence decision adopted by the European Commission, Recognition by ESMA or Endorsement by the relevant national competent authority.

#### **United Kingdom**

- In preparation for the UK's exit from the EU, the UK Government has taken steps to enact all current EU legislation in the UK directly, this includes the EU BMR (UK BMR). The UK BMR applied from 01/01/21. There is a transition period ending on 31/12/2025 for non-EU benchmark administrators to meet the requirements of the UK BMR.

#### **Australia**

- In March 2018, the Australian Parliament amended the Corporations Act of 2001 to introduce a new regulatory regime for certain benchmarks identified by ASIC as 'significant' or systemically important to the Australian financial market. ASIC has designated the following financial benchmarks as 'significant' for the purpose of the Australian benchmark regulation:
  - a. the Australian Bank Bill Swap Rate;
  - b. the S&P/ASX 200 Index;

- c. the ASX Bond Futures Settlement Price;
- d. the Australian Interbank Overnight Cash Rate;
- e. the Australian Consumer Price Index.

### **U.S.**

- The U.S. has not implemented laws specifically aimed at financial benchmarks and benchmark administrators. The manipulation or attempted manipulation of financial benchmarks is treated in the same manner as any traditional manipulation or fraudulent activity. Recently on June 15, the Securities and Exchange Commission announced that it is requesting information and public comment on matters related to the activities of certain “information providers,” including whether, under particular facts and circumstances, information providers are acting as “investment advisers” under the Investment Advisers Act of 1940 (“Advisers Act”). The Request specifically focuses on index providers, model portfolio providers, and pricing services.

### **Japan**

- The Financial Services Agency of Japan cabinet office ordinance and enforcement order 2015 – introduced a limited regulation based upon the IOSCO Principles for the administrators of specified benchmarks that are widely used as the basis of financial transactions. Currently the only specified benchmark in Japan is TIBOR.

### **Korea**

- June 2018 – a draft bill was proposed by the Financial Services Commission (FSC) to introduce a regulatory framework for financial benchmarks. The bill uses the IOSCO Principles as its framework, with similar definitions and concepts. The bill has a limited scope and shall apply only to those benchmarks designated as ‘significant’ by the FSC, due to the value of financial transactions using the benchmarks or a lack of suitable alternative benchmarks.

### **Singapore**

- Securities & Futures (Financial Benchmarks) Regulation 2018 / Securities & Futures (Designated Benchmarks) Order 2018 – The regulation, which came into force in October 2018, is similar to that passed by the Australian government. It uses the IOSCO Principles as its framework and limits the requirements to those benchmarks designated as significant by the Monetary Authority of Singapore. Currently the only designated benchmarks are SIBOR and SOR.

In 2018 and 2019 both Canada and South Africa issued consultations regarding the implementation of a benchmark regulation. Both countries have suggested using the IOSCO Principles as the guiding framework for any future regulation, however so far neither country has implemented a comprehensive benchmark regulation.

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