BARCLAYS

1 Churchill Place
Canary Wharf
London
E14 5HP

Mr Alp Eroglu
International Organization of Securities Commissions (IOSCO)
Calle Oquendo 12
28006 Madrid
Spain

Sent by email: Benchmarksconsultationresponses@IOSCO.org

11 February 2013

Response to IOSCO's Consultation on Financial Benchmarks

Dear Mr Eroglu,

Please find attached the Barclays response.

The integrity of the benchmark submission process is an important one and Barclays welcomes the opportunity to provide our comments on IOSCO's consultation paper on Financial Benchmarks.

I am happy to make myself available to discuss this topic if it would be of assistance.

Yours sincerely,

Francois Jourdain
Managing Director

For and on behalf of Barclays Bank PLC

Barclays response to IOSCO's Consultation on Financial Benchmarks

Barclays would like to draw your attention to our overriding comments on the consultation paper's scope below, which we would request are considered in relation to all our responses to the individual consultation questions set out thereafter.

Context

Prior to reviewing our response, it may be helpful if we provide details of the different ways in which indices are relevant to our business. We are a Submitter or Contributor to a number of indices, a user of a number of indices, and the producer of a number of indices. Within the latter category, we have a business called "Index Portfolio and Risk Solutions" (IPRS), which is part of the Barclays Research department, and is responsible for developing and maintaining the Barclays Global Family of Benchmark and Investible Indices.

Scope

Barclays views it as imperative that the market has access to Benchmarks that are well-constructed, transparent and that inspire the confidence of other market participants and regulators. To this end Barclays advocates both strong oversight and an appropriate control framework.

Barclays is aware, however, that there are a number of indices, produced by a range of public and private entities, using different methodologies and for different purposes. Accordingly, the nature of use varies widely from passive indicative benchmarking in a narrow context to a widely used index on which a significant number of derivative contracts may be based. Barclays therefore strongly supports the view within the consultation that a 'one size fits all' approach may not be appropriate for all indices and believes that it is important to ensure that any regulatory regime is proportionate and addresses the specific risks posed in each case.

In this regard, Barclays supports the level of rigour and the detailed requirements proposed by IOSCO with respect to "Benchmark Rates" (systemically important rates such as LIBOR and EURIBOR, which require qualitative submissions) (**"Benchmark Rates"**) and would request that this view is considered in relation to the responses below. With respect to the other "Benchmarks" (such as the FTSE 100; the S&P 500 and the Barclays Global Aggregate Index) (**"Independently Owned Benchmarks"**), Barclays supports an approach which seeks to identify the risks posed by each and implement a regime which is commensurate to these risks.

Such a tailored regulatory approach would ensure that all indices benefit from an appropriately robust framework both in terms of governance and control.

Additional information with respect to Barclays' Index, Portfolio and Risk Solutions (IPRS) business

IPRS forms part of the Global Research department within Barclays.

IPRS is responsible for developing and maintaining the Barclays Global Family of Benchmark and Investable Indices. These are some of the most widely followed indices in the world, especially in fixed income and are all maintained according to the same operating principles and procedures.

The Research function is separate from and independent of other business units including the Trading businesses which form the Global Markets division of the investment bank. IPRS is subject to the Global Research Policy, which has been drafted and is maintained by Barclays' Compliance Department.

IPRS is one of the premier global providers of benchmark indices for fixed income and inflation investors, having published total return bond market indices since 1973 and with over an estimated $6trn in assets benchmarked against Barclays branded indices globally.

Chapter 1

Scope

1. **Do you agree with the scope of the report and intended audience? Are there other Benchmarks or stakeholders that have idiosyncrasies that should place them outside of the scope of the report? Please describe each Benchmark or stakeholder and the idiosyncrasies that you identify and the reasons why in your view the Benchmark or stakeholder should be placed outside of the scope of the report.**

   Barclays agrees with the intended audience and would request that reference is made to the section entitled "Scope" as detailed above.

   Barclays view is that no Benchmark or stakeholder is outside the scope of this report, but that a proportionate approach should be employed; one that is commensurate to the risks posed by each type of index.

   Given the numerous consultations that have been issued and the various regulatory initiatives, we would advocate for an alignment in definitions, specifically in relation to the definition of a Benchmark.

Chapter 2

Benchmark design

2. **Do you agree that the design of a Benchmark should clearly reflect the key characteristics of the underlying interest it seeks to measure?**

   Yes, Barclays agrees that the design of a Benchmark should reflect the characteristics of the underlying interest it seeks to measure, thereby ensuring that the Benchmark is an accurate reflection of the underlying market.

   Full transparency in the definitions used to govern submissions to Benchmark Rates would assure the integrity of the market.

Quality and integrity of Methodologies

3. **What measures should Administrators take to ensure the integrity of information used in Benchmarking-setting and that the data is bona fide? Please highlight any additional measures required where Benchmarks are survey based. Please also comment on each of the factors identified in the discussion on the 'vulnerability of data inputs' such as voluntary submission, discretion exercised by Administrators. Are these measures**

adequately reflected in the discussion of roles and responsibilities of the Administrator discussed in section E?

For Benchmark Rates Barclays supports, wherever possible, a submission process that is based on real transaction data, as advocated within the Wheatley review's conclusion.

Barclays believes that such an approach would serve to increase transparency and reduce the risks associated with the use of subjective judgment. To support this approach Barclays would advocate that the Administrator is afforded limited or no discretion in setting the level of a Benchmark Rate; where there is a compelling reason for discretion (for example, perhaps to deal with limited liquidity), it should be exercised within set parameters to ensure that its use is transparent and has the benefit of verification and challenge by way of an established and documented framework.

Barclays believes that a successful transition to this approach must be supported by a coordinated package of reforms relating to Benchmark submissions by various international regulatory bodies. We would encourage consistency wherever possible.

Barclays is in favour of the establishment of a mechanism to compel submission. Whilst we believe such a mechanism should be used sparingly, it would assist regulatory authorities in ensuring the continuity of submission and the broadest possible range of Submitters, providing sufficient depth of data to dampen volatility and produce the most stable rate.

4. **What measures should Submitters implement to ensure the integrity of information provided to Administrators? Are these measures adequately reflected in the discussion of a code of conduct for Submitters discussed in section E? In particular, should Submitters submit all input data and not a selection of such data so as to maximise the representation of the underlying market? Please comment on any practical issues that compliance with such an approach may give rise to.**

Barclays believes that the measures suggested at section E, including policies and procedures to verify submissions and support Benchmark compilation, in addition to a conflict of interest policy adequately reflect the measures that should be implemented. Such policies and procedures should be proportionate to the risks of the particular Benchmark Rate.

As above, Barclays is in favour of the submission of real transaction data and therefore does not believe it to be appropriate to allow Submitters to exercise subjective judgment on which data to submit to the Administrator.

There are real benefits of an approach employing real transaction data, most importantly the increasing of confidence in the Benchmark Rate by regulators and market participants due to the increase in transparency of compilation of the Benchmark. There may be some practical considerations, which are touched on later in the paper, from a compilation perspective when using real transaction data; however consistent and clear procedures for both Submitters and Administrators should seek to address these.

Transparency of Benchmark methodologies

5. **What level of granularity with regard to the transparency of Methodologies would enable users to assess the credibility, representativeness, relevance and suitability of a Benchmark on an on-going basis and its limitations with respect to their intended use? Relevant factors could include; criteria and procedures used to develop the Methodology, type of data used, how data is collected, relative weighting of data used, how and when judgement is used, contingency measures (e.g., methods when transaction data is unavailable etc), publication of information supporting each Benchmark determination, etc. Please provide examples where you consider there are currently significant gaps in the provision of this information.**

In respect of Benchmark Rates:

As highlighted above, Barclays is in favour of removing the risk of subjective interpretation and therefore would advocate that Administrators have limited or no discretion and that there is an objective clarity of definition to remove any interpretation risk.

In respect of Independently Owned Benchmarks:

Barclays view is that high-quality and transparent benchmarks are important for Market Participants and should be documented through published rules and methodologies containing sufficient detail for Market Participants to fully understand how such benchmarks are comprised and calculated.

Barclays Benchmark and strategy indices are calculated according to published, rules-based methodologies which are clearly documented and widely disseminated to index users by IPRS. The methodologies are comprised of two parts: rules for selection of securities; and rules for calculation of aggregated returns of those securities. Where appropriate and useful, aggregated risk characteristics are also calculated and disseminated.

BARCLAYS

Transparency of contingency provisions for episodes of market disruption, illiquidity or other issues

6. **What steps should an Administrator take to disclose to Market Participants and other stakeholders the contingency measures it intends to use in conditions of market disruption, illiquidity or other stresses?**

   In respect of Benchmark Rates:

   Barclays supports an approach that sets out such contingency arrangements along with the applicable triggers. Except in certain limited situations where submissions are market sensitive, Barclays would be in favour of contemporaneous disclosure of submissions, on a non-attributed basis in order to remove signalling risk, which will ensure transparency of the Benchmark Rate.

   In respect of Independently Owned Benchmark Indices:

   Please refer to answer to question 5 above.

   IPRS manages these contingency measures through its index rules and a rigorous index governance process (see answer to question 7 for more detail on such process).

Transparency over changes to the Methodology

7. **What steps should an Administrator take to notify Market Participants of material changes to a Benchmark Methodology (including to Benchmark components) and to take their feedback into account?**

   In respect of Benchmark Rates:

   The process should require the Administrator to consult formally with market participants and stakeholders where the Administrator seeks to materially change a Benchmark Rate methodology. This will assist in the transparency and as a consequence the credibility of the Benchmark Rate.

   In respect of Independently Owned Benchmark Indices:

We believe that the implementation of a consultative process of some form that involves the index users is a practice that should be widely adopted for any indices and appropriately documented. This is essential to maintain integrity of the indices and to ensure that investors continue to have confidence that the indices are fit for purpose.

Barclays holds an annual, global consultation process with a broad range of users of its benchmark indices in order to garner direct feedback on proposed methodology changes required to reflect changing market conditions. This process has assisted with the development of the benchmark indices.

Over the years, Barclays has implemented a number of other governance arrangements internally, including management of the rules, as well as pricing procedures and Barclays would be happy to discuss those in more detail as examples of what we consider to be best practice.

8. **How often should the Administrator review the design and definition of the Benchmark to ensure that it remains representative?**

In respect of Benchmark Rates:

Where the Benchmark Rate is significant the Administrator should review at least annually the design and definition of the Benchmark.

In respect of Independently Owned Benchmark Indices:

Please see response to question 7.

Governance

9. **The Consultation Report discusses a number of potential conflicts of interest that may arise at the level of the Submitters, between Submitters at different entities, and between Submitters, Administrators and other third parties. Are there other types of conflicts of interest that have not been mentioned that you consider may arise? If so, how best should these conflicts of interest be addressed? Are the measures discussed in the Consultation Report sufficient to address potential conflicts of interests at the level of the Submitters, between Submitters at different entities, and between Submitters, Administrators and other third parties?**

The measures discussed in the consultation paper with respect to conflicts of interest appear to be sufficient to address potential conflicts of interest.

Reporting transactions or tradeable prices available to the market would serve to reduce conflicts, especially as trades are already subject to a clear and robust regulatory framework under market abuse regulation. This should ensure that conflicts are mitigated even where Submitters are required to be active in the underlying market to enable them to have sufficient understanding of the market to allow them to make accurate submissions.

10. Do you agree that the Administrator should establish an oversight committee or other body to provide independent scrutiny of all relevant activities and management of conflicts of interest? Please comment if and why any different approaches might be appropriate for different kinds of Benchmarks. What is the minimum level of independent representation this committee or body should include?

In respect of Benchmark Rates:

Barclays is in favour of a clear and transparent governance framework and would support the establishment of an oversight committee to provide independent scrutiny, including the review of the appropriateness of the Benchmark definition and methodology.

With respect to the committees composition it is appropriate that there should be a mix of those involved within the market and those not involved in submission; independent members should have a solid understanding of the Benchmark and the Benchmark process.

Barclays would again refer you to our comments within the covering letter regarding scope with respect to adopting a proportionate principles based approach to the governance of indices based on significance.

In respect of Independently Owned Benchmark Indices:

Please see response to question 7.

Where there are robust governance processes, appropriate interaction with Market Participants and clear compliance policies in place, it is not obvious how an independent oversight committee would increase independence, as a good degree of independence should already be in place with this framework.

Accountability

11. Should the Submitters establish accountability procedures to assess their compliance with operational standards and scrutiny of Benchmark submissions?

Barclays supports proposals for Submitters to establish procedures to assess compliance with operational standards and scrutiny of Benchmark Rate submissions, such as documentation retention requirements and external audit reviews.

However, such procedures should operate at the level of the firm's general approach, rather than being required for each Benchmark Rate.

12. Are the measures discussed in the Consultation Report (e.g. Audit Trail, external audits and requirement for regulatory cooperation) sufficient to ensure the accountability of Submitters? Should additional mechanisms be considered?

The measures appear sufficient and should ensure that submission activity for Benchmark Rates is transparent and accountable.

13. How frequently should Submitters be subject to audits? Should these be internal or external audits?

Annual audits would seem appropriate and where external audits are required, Barclays would encourage that these can be undertaken by the firm's auditors and are targeted and governed by a standard approach.

However, such procedures should operate at the level of the firm's general approach, rather than being required for each Benchmark Rate.

Accountability of the Administrator

14. Are the measures discussed in the Consultation Report (e.g., complaints process, Audit Trail, external audits and requirement for regulatory cooperation) sufficient to ensure accountability of the Administrator? Should additional mechanisms be considered?

In respect of Benchmark Rates:

The measures identified appear sufficient. However, in addition it should be explicit that the oversight committee should also have appropriate oversight of the Administrator's activities and be able to attest regularly to compliance.

In respect of Independently Owned Benchmark Indices:

Provided that there is a high degree of transparency with the indices produced, clear documentation and robust governance procedures in place; we would expect that accountability would not be an issue.

We do support a complaints process as good practice, but do not think it necessary for "external audit" to be a requirement.

15. If recommended, how frequently should Administrators be subject to audits? Should these be internal or external audits?

In respect of Benchmark Rates:

It may be advisable to ensure that Administrators are audited externally at least annually to ensure adherence to policy and process.

External audits will also have the added benefit of identifying and proposing the application of industry best practice across Administrators.

In respect of Independently Owned Benchmark Indices:

Please see response to question 14.

16. Is public self-certification of compliance with industry standards or an industry code another useful measure to support accountability? This approach might also contemplate explanation of why compliance may not have occurred. If so, what self-certification requirements would make this approach most reliable and useful to support market integrity.

In respect of Benchmark Rates:

Barclays would support a clear regulatory framework rather than self-certification.

In respect of Independently Owned Benchmark Indices:

Please see response to question 14.

Code of conduct for Submitters

17. The Consultation Report discusses elements of a code of conduct for Submitters. Are the measures discussed (e.g., adequate policies to verify submissions, record management policies that allow the Submitter to evidence how a particular submission was given, etc.) sufficient to address potential conflicts of interest identified or do you believe that other control framework principles should be added?

These elements appear adequate.

18. What would be the key differences in the code of conduct for Benchmarks based on different input types, for example transactions, committed quotes and/or expert judgement?

Barclays is in favour of the submission of real transaction data, which would add transparency to the compilation of the Benchmark Rate.

Given the differences in each market it would be appropriate for Benchmark Administrators to take into account the particularities of each market when establishing codes of conduct. It is also imperative that the code of conduct takes into account not only the submission type and mechanism, but also the significance of the benchmark. It is important that codes of conduct should be proportionate to the type of Benchmark to which they relate.

BARCLAYS

Chapter 3

Approaches to enhanced oversight

19. **What are the advantages and disadvantages of making Benchmark submissions a regulated activity?**

Barclays is supportive of the FSA's approach, as articulated in its consultation paper, to move to a position where Benchmark Rates are regulated.

20. **What are the advantages and disadvantages of making Benchmark Administration a regulated activity?**

In respect of Benchmark Rates:

See question 19.

In respect of Independently Owned Benchmark Indices:

There is a clear distinction between the composition and commercial usage of Benchmark Rates and Independently Owned Benchmark Indices.

Barclays would therefore encourage IOSCO to conduct a thorough review of how Benchmark Administrators currently manage their Independently Owned Benchmark Indices before assessing further the advantages/disadvantages of regulation (whether self-regulated or backed by legislation); codes of conduct or any other measures.

That is not to say that certain areas cannot be improved (for example some kind of standardisation of index governance requirements could be a good idea), but any initiation of regulation/codes of conducts etc for these types of indices should be carefully considered in light of the clear differentiation between Independently Owned Benchmarks and Benchmark Rates.

21. **Do you agree with the factors identified for drawing regulatory distinctions? What other factors should be considered in determining the appropriate degree of oversight of Benchmark activities (discussed in Chapter 3)? Please provide specific recommendations as to how the distinctions discussed in Chapter 3 should inform oversight mechanisms.**

In respect of Benchmark Rates:

Barclays agrees with the factors identified. The distinction by IOSCO between different types of oversight is useful.

As above, Barclays supports regulated status for Benchmark Rates and an approach that is more comprehensive for Benchmark Rates. Barclays would stress the need for international regulatory consistency in approach and definition.

In respect of Independently Owned Benchmark Indices:

Please see response to question 20.

22. What distinctions, if any, should be made with regard to Benchmarks created by third parties and those created by regulated exchanges?

Please refer to question 18 above. It is the type of Benchmark and its importance which should determine the approach, rather than the identity of the Benchmark publisher.

23. Assuming that some form of enhanced regulatory oversight will be applied to an asset class Benchmark, should such enhanced oversight be applied to the Submitters of data as well as the Administrator?

In respect of Benchmark Rates:

Despite performing different roles in support of the production of a credible Benchmark rate, Barclays believes that both should be subject to the same degree of regulatory scrutiny over their mandated activities.

Regulators should be encouraged to focus on the adequacy and appropriateness of significant Benchmark Rate submissions and the governance and control at Administrators.

24. What are the considerations that should be taken into account if the Submitters to a Benchmark operate in an otherwise unregulated market (e.g., physical oil, gold or agricultural commodity markets) and are not otherwise under any obligation to submit data to an Administrator?

Where a market is unregulated, it is often the case that the market participant is regulated and therefore subject to general regulatory oversight at the firm level and the individual level, as well as an overriding requirement to comply with European and national legislation around market conduct.

Furthermore, many Benchmark Rates in unregulated markets could have an impact on regulated markets and so become subject to regulatory oversight.

25. **Do you believe that a code of conduct, either on its own or in conjunction with other measures outlined within the report, would provide sufficient oversight to mitigate the risks that have been identified in Chapter 2? What measures should be established in conjunction with a code of conduct? For which Benchmarks is this approach suitable?**

In respect of Benchmark Rates:

As above, it is unlikely that a code of conduct (even in conjunction with other measures outlined) would be sufficient in isolation. Any code would have to operate in conjunction with current legislation, including, in due course, MAR / MAD and national legislation. We encourage regulators to focus on requiring Codes of Conduct for Benchmark Rates.

In respect of Independently Owned Benchmark Indices:

Please see response to question 20.

26. **What other measures outlined in the report, if any, should apply in addition to a code of conduct? If you believe a code of conduct, either on its own or in conjunction with other measures outlined within the report, would provide sufficient oversight to mitigate the risks that have been identified in Chapter 2, what type of code of conduct should apply (e.g., a voluntary code of conduct, an industry code of conduct submitted to and approved by the relevant Regulatory Authority, a code of conduct developed by IOSCO, etc.)?**

In respect of Benchmark Rates:

A Code of Conduct developed in a consistent fashion by international regulators would be useful for Benchmark Rates.

In respect of Independently Owned Benchmark Indices:

Please see response to question 20.

27. **Do you believe that the creation of a Self-Regulatory Organisation (.e.g., one that exercises delegated governmental powers) and itself subject to governmental oversight, whether or not in conjunction with industry codes is a viable alternative for sufficient oversight and enforcement to mitigate the risks that have been identified in Chapter 2? For which Benchmarks is this approach suitable? What if any complementary arrangements might be necessary, such as new statutory obligations or offences for Administrators and/or Submitters?**

In respect of Benchmark Rates:

Barclays would favour the development of a regulator-led approach for Benchmark Rates.

In respect of Independently Owned Benchmark Indices:

Please see response to question 20.

28. **Do you believe that, for some Benchmarks, reliance upon the power of securities and derivatives regulators to evaluate products that reference a Benchmark or exercise their market abuse or false reporting powers creates sufficient incentives for the Administrator to ensure sure that Submitters comply with a code of conduct?**

Yes.

29. **Do you believe that users of a Benchmark, specifically, the users who are regulated or under the supervision of a national competent authority should have a role in enhancing the quality of Benchmarks? Which form should this role take: on a voluntary basis (e.g. the user being issued a statement that will only use Benchmarks that follow IOSCO principles), or on a compulsory basis (e.g., the competent authority could request that users who are registered under their jurisdiction should only use Benchmarks that fulfil IOSCO principles)?**

Barclays believes that Administrators should invite industry groups and significant users to participate within the Benchmark Rates governance framework on a voluntary basis.

Barclays is in favour of a market-led determination of which Benchmark Rates best fulfil a specific requirement. However, for specific sub-sets of the market (e.g. UCITS), it may be appropriate to restrict their use to only IOSCO approved Benchmarks.

Chapter 4

Data sufficiency

30. Do you agree that a Benchmark should be anchored by observable transactions entered into at arm's length between buyers and sellers in order for it to function as a credible indicator of prices, rates or index values? How should Benchmarks that are otherwise anchored by bona-fide transactions deal with periods of illiquidity due to market stress or long-term disruption?

Barclays is in favour of Benchmark Rates based on real transactional data, disclosed on a non-attributed basis in order to avoid signalling.

The Benchmark Rate governance processes that are established should make explicit provision for fallback arrangements during periods of illiquidity or other situations where submissions are not available, in order to provide for continuity of the Benchmark Rate.

The most appropriate solution will to a large extent be dependant upon the specific Benchmark Rate.

31. Are there specific Benchmarks for which you consider that observable transactional data is not an appropriate criterion or the sole criterion? If so, please provide a description of such Benchmarks and what value you think such Benchmarks provide?

Benchmarks designed to track illiquid markets. Such Benchmarks can be useful in providing indicative transparency on normally less transparent markets.

32. What do you consider the limitations or value in Benchmarks referencing asset classes and underlying interests where there is limited liquidity? Please describe the uses and value of such Benchmarks in the financial markets.

Such Benchmarks can be useful in providing indicative transparency on normally less transparent markets.

33. Do you agree that the greatest weight should be given to transactions in the construction of a Benchmark and that non-transactional information should be used as an adjunct (e.r., as a supplement) to transactions?

Barclays supports a submission process that is based on real transaction data and would agree with IOSCO's view that Benchmarks based on real transactions should be given the greatest weight.

34. What factors and how often should Administrators (or others) consider in determining whether the market for a current Benchmark's underlying interest is no longer sufficiently robust? What effective methods of review could aid in determining the insufficiency of trading activity within the market for a Benchmark's underlying interest?

In respect of Benchmark Rates:

As highlighted above for Benchmark Rates an annual review in terms of the methodology and calculation would be appropriate.

The process should clearly establish thresholds which when breached may render the Benchmark Rate unviable, as well as contingencies. These will be based upon the individual Benchmark Rate and therefore an individual approach is optimum.

In respect of Independently Owned Benchmark Indices:

Please see response to question 7.

Transition

35. What precautions by Benchmark Administrators, Submitters, and users can aid Benchmark resiliency during periods of market stress, mitigating the potential need for market transition?

Clearly set out processes and contingency plans would assist in providing stakeholders confidence in the compilation of the Benchmark in periods of market stress.

36. What elements of a Benchmark "living will," drafted by a Benchmark Administrator, should be prioritised?

The priorities identified appear sensible and should support a smooth transfer to the alternative Benchmark Rate.

The ability of Submitters to transition quickly to a new regime is key, as is the ability for the user of the Benchmark Rate to benefit from the rate transitioned to immediately and without interruption.

37. By what process, and in consultation with what bodies, should alternatives be determined for Benchmark replacement?

In respect of Benchmark Rates:

The oversight committee through its regular review should be best placed to determine if the Benchmark Rate needs to be transitioned (this could be verified by external auditors), consultation with Submitters and stakeholders should be actively encouraged.

In respect of Independently Owned Benchmark Indices:

Benchmark replacement in the main has always been driven by Market Participants and the active switching of one Independently Owned Benchmark Index to another is commonplace in the asset owner/manager community. Where a Market Participant wishes to switch a benchmark for commercial reasons or because it has been terminated, it would usually speak to alternative index providers to see if they have a suitable alternative "off the shelf" and if not, it will look for an alternative index to be constructed.

38. What characteristics should be considered when determining an appropriate alternate Benchmark? (Examples below) Should any of these factors be prioritised?

- **Level and Type of Market Activity**
- **Diversity/Number of Benchmark Submitters**
- **Length of historical price series for the Benchmark alternative**
- **Benchmark Methodology**
- **Existing regulatory oversight**
- **Existing enforcement authority**
- **Volume, tenors and contract structure of the legacy trades**

The following characteristics could be prioritised:

- The Benchmark must be representative of an active market.
- The Benchmark should be transparent and based on real transactions as much as possible.
- Whether the Benchmark is substitutable and sustainable.
- Volume, tenors and contract structure of the legacy trades
- Level and Type of Market Activity
- Length of historical price series for the Benchmark alternative
- Diversity/Number of Benchmark Submitters

39. What conditions are necessary to ensure a smooth transition between market Benchmarks?

Direct or near suitability of the Benchmark is key to ensuring that confidence is maintained in the new Benchmark and to its smooth transition.

Any decision to transition to a new Benchmark would benefit by the knowledge that it has been determined and supported by the market through consultation.

40. What considerations should be made for legacy contracts which reference a Benchmark in transition? To what extent does a substantive legacy book preclude transition away from a Benchmark? What provisions can be included in [new and existing] contract specifications which would mitigate concerns if and when a Benchmark transitions occurs?

Legacy indexes should be published for a long period of time and where appropriate a transition to new benchmarks even for legacy trades should be encouraged.

Public agencies, including international agencies could be at the forefront of such transitions by novating their contracts to the new benchmarks.

41. How should a timeframe be determined for market movement between a Benchmark and its replacement? What considerations should be made for:

- **Altered regulatory oversight?**
- **Infrastructure development/modification?**
- **Revisions to currently established contracts referencing the previous Benchmark?**
- **Revisions to the Benchmark Administrator?**
- **Risk to contract frustration**

Transition should be achieved relatively quickly and provisions should focus on the immediate transferability of the Benchmark, therefore elements such as the risk to contract frustration are important considerations as well as Revisions to currently established contracts referencing the previous Benchmark.

Revisions to the Benchmark Administrator are also important to ensure that the Administrator can actively and robustly support the transition.