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**Directorate-General for Financial Stability, Financial Services and Capital Markets Union
European Commission
1049 Brussels
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MSCI Response to the European Commission Consultation on ESMA Fees for Benchmark Supervision

MSCI welcomes the opportunity to provide feedback on the European Commission's consultation on the proposed Delegated Regulation, which sets out the fee structure for ESMA's supervision of benchmark administrators. As a global benchmark administrator authorised in both the EU and the UK¹, and as a future administrator of significant benchmarks under the revised EU Benchmark Regulation (BMR)², MSCI has a direct interest in ensuring that the supervisory fee framework is fair, transparent, and workable in practice.

While we recognise the importance of adequately resourcing ESMA to carry out its supervisory responsibilities, we are concerned that the proposed model:

- 1) Increasing regulatory burden and cost through mandating an external audit of revenue figures;
- 2) Introducing unpredictability with a variable fee framework, but only for certain administrators;
- 3) Significantly increasing the supervisory fees compared to the current fees charged by Member State National Competent Authorities (NCAs); and
- 4) Failing to set fees that distinguish between different levels of supervisory effort.

In light of these concerns, we outline below specific elements of the proposed fee model that we believe require adjustment to ensure alignment with the principles of proportionality, transparency, and risk-based supervision.

1. The audit requirement for revenue declarations is disproportionate

The proposal to mandate an external audit of revenue declarations imposes additional and unnecessary compliance costs. External audits of revenue related solely to EU benchmark activities are not required under corporate law and are neither required by Member State NCAs nor third-country supervisors. Thus, they represent a wholly new, additional and recurring cost on administrators of significant benchmarks. The cost of such an audit will likely be material; approaching or even exceeding the supervisory fee itself.

MSCI, and likely other third-country benchmark administrators, is in a different position compared to other firms regulated by ESMA, to whom the audit requirement currently applies. Those firms are often already required to secure an audit as part of their corporate law obligations; where the revenue of the

¹ Please see <https://www.msci.com/indexes/index-resources/benchmark-regulations>.

² On June 30, 2025, MSCI announced that MSCI Deutschland GmbH will endorse into the EU all significant benchmarks administered by MSCI Limited and their associated price and currency variants that are being used as a reference for financial products in the EU, effective December 5, 2025.

EU entity closely matches the relevant EU revenue for supervisory fee purposes, that audit can be used for both purposes. This contrasts with the revenue model of many third-country benchmark administrators, where the relevant revenue may not accrue in a single EU entity. This indicates that a different approach is necessary, to maintain proportionality.

We propose that ESMA should adopt a risk-based approach to revenue validation, reserving audit requirements for exceptional circumstances. Administrators of significant benchmarks should be permitted to provide revenue figures supported by internal controls and governance, with audit requirements triggered only where ESMA identifies inconsistencies or material concerns and an administrator has not been able to rectify those in a reasonable time period. This would align revenue submissions with other information that supervised firms provide to ESMA during routine supervision, none of which requires audit. It would also ensure the integrity of ESMA's fee-setting process while placing less burden on supervised firms – that is, it would be a proportionate approach.

2. Uncertainty in fee levels unfairly undermines predictability for certain benchmark administrators

Under the proposed model, administrators of significant benchmarks are the only category subject to a variable fee. Administrators of critical and non-significant benchmarks are given certainty through fixed fees, while significant administrators are left to absorb the residual amount of ESMA's budget. This asymmetry introduces budgeting uncertainty and creates an uneven playing field; even more so considering that only administrators of significant benchmarks will need to audit revenue figures (the expense of which is noted above). The proposed model shifts the financial risk of supervisory cost variations, whether deriving from inflation or from increases in ESMA resourcing, onto only the administrators of significant benchmarks.

The draft Delegated Regulation does not provide a justification for why administrators of significant benchmarks should be treated differently from other administrators to their detriment. Nor has it provided detail on how the supervisory costs were estimated, leaving administrators unable to forecast their future liabilities.

We urge the Commission to implement a capped or fixed-fee model for administrators of significant benchmarks, in line with other categories. This would ensure predictability, support long-term planning, and avoid creating commercial disincentives for administrators. ESMA could adjust its fees annually with a transparent percentage increase or decrease in fees applied across the benchmark industry. Such a model would also mean that the external audit of revenue submissions would not be necessary.

3. The proposed supervisory fees are high and represent an unjustified increase on fees charged by NCAs

The proposed fee structure represents a very significant increase in supervisory fees. It is difficult to reconcile this increase with proposals for more centralised supervision in the EU to enhance capital markets; such increases hardly make centralised supervision an attractive outcome.

Neither the Commission nor ESMA has provided a business plan justifying the resources implied by the level of the fees. This precludes stakeholders from providing informed feedback on the proposed level of the fees. Nor can stakeholders comment on whether the level of resources and fees are appropriate relative to that for other sectors that ESMA directly supervises. ESMA has not demonstrated that benchmark administrators impose a supervisory burden commensurate with the projected fees.

We recommend that the Commission should publish a full, detailed business plan for ESMA, for comment. This would allow stakeholders to provide informed feedback on the level and structure of ESMA's fees.

4. ESMA should consider setting fees that distinguish between different levels of supervisory effort

The proposed fee framework does not take into account the clear distinctions in ESMA's supervisory role under the BMR, depending on the route through which a third-country benchmark is made available in the EU. In particular, the model treats benchmark administrators 'endorsing' third-country benchmarks into the EU the same as those that are 'recognised', despite the resulting supervisory arrangements being fundamentally different.

Administrators operating under the *endorsement route* must have an EU-authorized administrator to review and verify that the third-country benchmark meets the requirements of the BMR. In these cases, ESMA would supervise the endorsing administrator's compliance with Article 33(1), which includes ensuring that the third-country benchmark fulfils all BMR requirements, and with Article 33(5), which imposes an ongoing obligation to ensure the benchmark remains compliant. ESMA does not supervise the third-country benchmark or its administrator.

In contrast, under the *recognition route* ESMA directly supervises the third-country administrator and oversees its compliance with the full set of BMR obligations. This includes all governance, methodology, and transparency requirements; effectively the same supervisory intensity as for an EU-based administrator. The supervisory workload for ESMA appears to be substantially higher for recognition than for endorsement, suggesting that differentiated fees are appropriate.

Within endorsement, further differentiation is warranted. When endorsed benchmarks are administered by an entity already subject to robust supervision by a third-country regulator, such as the UK Financial Conduct Authority or other regulator that has adopted the IOSCO Principles, there should be significantly less risk and, therefore, less need for ESMA intervention. In these cases, ESMA should be able to take comfort from the third-country supervision, making the intensity and cost of ESMA's supervision materially lower. In contrast, if an endorsed benchmark originates from a jurisdiction with no equivalent regulatory regime or no effective supervisory oversight, ESMA should need to supervise the endorsing administrator more intensively.

These nuances are central to the proportionality objective of the BMR. A fixed-fee model (as proposed in (2) above) should reflect these differences to create an incentive for firms to organise in a way that reduces the supervisory burden.

We recommend that the Commission reflects these distinctions in the framework by establishing lower fees:

- (i) for administrators endorsing benchmarks (relative to recognition), and
- (ii) where the third-country benchmark is subject to effective supervision by a credible third-country supervisor.

This approach would more closely align the fees with the supervisory resource imperative; such alignment should be an underlying principle upon which the fees are based. Because the administrator of an endorsed benchmark supervised elsewhere will have already paid fees to that other supervisor, recognition of the benefits of that other supervisor would reduce the amount of duplicative supervisory fees. Furthermore, this approach would also help support the objectives of the EU's Capital Markets Union by encouraging firms to build and maintain substance in the EU (through opting for endorsement rather than recognition).

Conclusion

As an EU benchmark administrator that will make significant benchmarks available under the revised BMR, MSCI supports a sustainable and credible fee framework that is consistent with the principles of proportionality, transparency, and predictability. The current proposal introduces unnecessary uncertainty, creates disproportionate costs for significant administrators, and lacks sufficient granularity to reflect the differentiated supervisory roles envisaged under the BMR.

We encourage the Commission to revise the proposed model to:

1. Adopt a risk-based approach to revenue audits;
2. Introduce a fixed or capped fee for administrators of significant benchmarks;
3. Publish a full business plan justifying ESMA's fee levels; and
4. Recognise the distinct roles ESMA plays in endorsement and recognition, and the benefits of supervision under credible third-country frameworks.

We would welcome the opportunity to further discuss these issues and support the Commission in finalising a fee structure that strengthens the effectiveness and competitiveness of the EU benchmark framework.

Yours sincerely,

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