

Review of the Implementation of IOSCO's Principles for Financial Benchmarks



**The Board
OF THE
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

OR02/2015	FEBRUARY 2015
------------------	----------------------

Copies of publications are available from:
The International Organization of Securities Commissions website www.iosco.org

© *International Organization of Securities Commissions 2015. All rights reserved. Brief excerpts may be reproduced or translated provided the source is stated.*

Statement by IOSCO: Certain IOSCO authorities may consider rule proposals or standards that relate to the substance of this report. These authorities provided information to IOSCO or otherwise participated in the preparation of this report, but their participation should not be viewed as an expression of a judgment by these authorities regarding their current or future regulatory proposals or of their rulemaking or standards implementation work. This report thus does not reflect a judgment by, or limit the choices of, these authorities with regard to their proposed or final versions of their rules or standards.

Contents

Chapter		Page
	Executive Summary	1
1	Introduction	2
	1.1 Background 1.2 Summary of the Principles 1.3 Implementation and Proportionality 1.4 Regulatory Action by IOSCO Members or relevant National Authorities 1.5 Purpose of the Review 1.6 Review Methodology 1.7 Review Team	
2	Key Findings	7
	2.1. State of Compliance 2.2. Reasons for Non-compliance 2.3. Process to Achieve compliance 2.4. Planned Measures for Future Compliance 2.5. Administrators' Understanding of Proportionality	
3	Conclusions	13
	3.1. Level of Implementation and Changes in line with the Principles 3.2. Publication of Information 3.3. Applying the Concept of Proportionality 3.4. Transition of Benchmarks to new Administrators and Cessation of Benchmarks 3.5. Divergences in Implementation across Asset Classes 3.6. Issues for Further Consideration	
	Annex 1 Chart representing the steps towards compliance and detail of compliance statement for each of the reviewed Benchmarks	16

Executive Summary

The IOSCO Principles for Financial Benchmarks were published in July 2013 with the aim of creating an overarching framework of Principles for Benchmarks used in financial markets, covering governance and accountability as well as the quality and transparency of Benchmark design and methodologies. IOSCO does not expect a “one-size-fits-all” method of implementation to achieve the objectives of the Principles. The Final Report acknowledges that the implementation of the Principles will not be identical for each Benchmark but may be met in different ways depending on the specificities of individual Benchmarks. When adopting the Principles, IOSCO mandated that an implementation Review be carried out within 18 months following the publication of the Principles. This Report sets out the findings of that Review.

The Review was conducted by taking a sample of 36 Benchmarks (which are provided by 23 Administrators) that are either widely used or sector-specific Benchmarks, across a variety of regions and assets classes. Information was collected directly from the Administrators through a questionnaire and indirectly through examination of any statements of compliance they had published.

As such, this Review is based only on Administrators’ self-assessments of their compliance with the Principles.

There was a high rate of response to the Review by the Administrators of the Benchmarks reviewed. In many cases Administrators stated that they have used the Principles in order to perform a gap analysis on their policies and procedures and the majority of Administrators stated that they had taken steps to implement some or all of the Principles, with many reporting ongoing work. The most changes were reported in relation to the implementation of the Principles concerning governance arrangements. There was also a significant amount of work reported around analysing Benchmark design with some Administrators stating that they had moved from a Benchmark based on Submissions to one anchored in transactions. Examples were also found of Administrators electing to wind-down individual tenors or whole Benchmarks where the level of data was not sufficient for the Administrator to be satisfied that the Benchmark would be robust.

As noted, the Principles are intended to be applied in a proportionate manner, where appropriate. Around half of the Administrators of the Benchmarks reviewed stated that they had applied proportionality in their implementation of the Principles. This was most frequently applied to Principle 14 which concerns Submitter Codes of Conduct. The level of proportionality was not always clear in statements of compliance published by Administrators and, in fact, for just under half of the Administrators of the Benchmarks in the sample, the Review Team could not find a published statement disclosing the level of compliance. Around a fifth of the Administrators of the Benchmarks reviewed were reported to be either currently or recently in the process of transitioning to a new Administrator or in the process of winding-down. These transitions to new Administrators appear to have commenced after the Principles were published. In these cases Administrators were often not in a position to report on the level of compliance with the Principles, however, many stated that they would be conducting assessments of compliance once the transition was complete.

In comparing the reviewed Benchmarks across the underlying asset classes, Administrators of equity Benchmarks reported the highest level of compliance, with most having published a statement of compliance. In several cases, external auditors had been commissioned to consider whether these statements were fairly stated. Administrators of fixed income and commodity Benchmarks exhibited the highest reported levels of transition to new Administrators and under half stated that they were aligned with the Principles.

1. Introduction

This report (**Report**) sets out the findings of the review (**Review**) by the International Organisation of Securities Commissions (**IOSCO**) Task Force on Financial Market Benchmarks (**Task Force**) of the implementation of IOSCO's Principles for Financial Benchmarks (**Principles**) by a sample of Administrators of financial Benchmarks across a range of geographical areas and asset classes.

This Report was prepared for the IOSCO Board by a review team (**Review Team**) constituted by Task Force members. The membership of the Review Team is specified below.

The Task Force would like to thank all the Administrators that participated in this Review for their cooperation.

1.1. Background

In July 2013, IOSCO published its Final Report, *Principles for Financial Benchmarks* (**Final Report**), which sets out Principles that are intended to create an overarching framework of standards for Benchmarks used in financial markets. Specifically, the IOSCO Board sought to articulate policy guidance that addresses conflicts of interest in Benchmark-setting processes, as well as transparency and openness when considering issues related to Benchmark transition.

The Principles were endorsed by the Financial Stability Board (**FSB**) as global standards for Administrators to ensure the integrity of Benchmarks through transparent, effective methodologies and robust systems of governance and accountability. The Principles were also endorsed by the G20 Leaders at the St Petersburg Summit in September 2013.

In the Final Report, IOSCO stated its intent to review within an 18-month period the extent to which the Principles have been implemented by obtaining the input of Stakeholders, Market Authorities and, as appropriate, Administrators.

Prior to this Review and the issuance of this Report, IOSCO undertook two detailed reviews of the compliance of certain Administrators with the Principles. The first was a review of the Administrators of the most widely used interest rate Benchmarks (Euro Interbank Offered Rate (**Euribor**), London Interbank Offer Rate (**Libor**) and Tokyo Interbank Offered Rate (**Tibor**))¹, commissioned by the FSB Official Sector Steering Group and completed in July

¹ IOSCO, Review of the Implementation of IOSCO's Principles for Financial Benchmarks by Administrators of Libor, Euribor and Tibor. Available at: <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD444.pdf>.

2014. The second review, of the Administrator of the WM/Reuters 4 p.m. London Closing Spot Rate (**WMR**)², was launched in 2013 at the request of the FSB following concerns regarding the integrity of foreign exchange markets, and completed in September 2014.

In July 2014, the IOSCO Board agreed that the implementation review of other Benchmarks would be conducted by ‘seeking input from stakeholders, market authorities and as appropriate Benchmark Administrators and summarising the findings in a report to the IOSCO Board’.

This Report describes how the Review was conducted, describes the key findings arising from a process of engagement with Administrators and draws high level conclusions from the Review.

Unless otherwise defined, capitalised terms used in this Report have the meaning ascribed to them in the Final Report.

1.2. Summary of the Principles

The Principles address Benchmark governance, Benchmark and Methodology quality and accountability mechanisms.

- On **governance**, the Principles are intended to ensure that Administrators have appropriate governance arrangements in place to protect the integrity of the Benchmark determination process and to address conflicts of interest.
- On **Benchmark quality**, the Principles are intended to promote the quality and integrity of Benchmark determinations through the application of design factors that result in a Benchmark that reflects a credible market for the Interest measured by that Benchmark. The Principles also clarify that a variety of data may be appropriately used to construct a Benchmark, as long as Principle 7 on data sufficiency is met (i.e., the Benchmark is based on an active market).
- On **Methodology quality**, the Principles are intended to promote the quality and integrity of Methodologies by setting out minimum information that should be addressed within a Methodology. The Principles require that information be Published or Made Available so that Stakeholders may understand and make their own judgments concerning the overall credibility of a Benchmark. They also require that the Methodology address the need for procedures that control when material changes are planned, as a means of alerting Stakeholders to these changes that might affect their positions, financial instruments or contracts.
 - The Principles also establish that Administrators should have credible policies in case a Benchmark ceases to exist or Stakeholders need to transition to another Benchmark. These policies are intended to encourage Administrators

² IOSCO, Review of the Implementation of IOSCO’s Principles for Financial Benchmarks by WM in respect of the WM/Reuters 4.p.m Closing Spot Rate. Available at: <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD451.pdf>.

and Stakeholders to plan prospectively for the possible cessation of a Benchmark.

- The Principles also address vulnerabilities in the submission process (e.g., conflict of interest, improper communication between Submitters and Administrators, selective submission of data) by outlining the responsibilities that should be undertaken by Submitters.
- On **accountability**, the Principles require that Administrators establish complaints processes, documentation standards and audit reviews intended to provide evidence of compliance by the Administrator with its quality standards, as defined by the Principles and its own policies. The Principles also addressed making this information available to relevant Market Authorities

1.3. Implementation and Proportionality

The Final Report states that the Principles should be understood as a set of recommended practices that should be implemented by Benchmark Administrators and Submitters.

Given the large universe of Benchmarks, the Final Report notes that the implementation of the Principles will not be identical for each Benchmark or Administrator. Rather, the Principles provide a framework of standards that Administrators should implement according to the specificities of each Benchmark. In particular, the application and implementation of the Principles should be proportional to the size and risks posed by each Benchmark and/or Administrator and the relevant Benchmark-setting process. This approach is referred to in this Report as *proportionality*. The Final Report states that if implementation in any way deviates from the Principles, the Administrator should explain why it believes it meets the objectives and functions of the Principles, including to the extent they are relying on a proportionate view of the Principles. The Review includes an assessment of the use of proportionality as reported by Administrators of the Benchmarks reviewed.

The Final Report also states that Administrators should publically disclose their compliance with the Principles within twelve months of the publication of the report (by July 2014). Administrators should then publically disclose the extent of their compliance with the Principles annually.

1.4. Regulatory Action by IOSCO Members and relevant National Authorities

The Final Report states that the Principles are to be understood as a set of recommended practices that should be implemented by Benchmark Administrators and Submitters, noting that different approaches may be appropriate for different Benchmarks. As a result, the Final Report did not make specific recommendations with respect to any particular Benchmarks.

This Report seeks only to evaluate the implementation of the Principles by individual Administrators. The Final Report did however state that “*IOSCO members should encourage implementation of the Principles including through regulatory action where appropriate*”, noting that the majority of IOSCO members do not currently regulate Benchmark Administration or Submission. The Task Force recognises that, while the Principles do not require regulatory action, some IOSCO members have acted to encourage implementation of the Principles, through legislation or other means.

1.5. Purpose of the Review

The Review was intended to chart the extent to which the Principles have been implemented by a sample of Administrators across different asset classes and geographies, allowing for comparisons based on these characteristics.

The Review provided an overview of the implementation of the Principles, including any reported application by Administrators of the concept of proportionality. As such, this Report does not rate the implementation of each of the 19 individual Principles for each relevant Benchmark.

Where possible, the Review looked to identify reasons why Administrators have decided not to implement some or all of the Principles.

Ultimately, the Review was intended to provide high level information to the IOSCO Board about the extent of the voluntary market adoption of the Principles, with a view to understanding what Administrators have done and what remains to be done, to implement the Principles.

1.6. Review Methodology

The Review was undertaken as a desk-based exercise, using the findings in the Review Team's preliminary work (described below) and questionnaire responses from participating Administrators.

As a first step the Task Force identified a sample of Benchmarks for inclusion in this Review. (Euribor, Libor, Tibor, and WM/Reuters 4pm Closing Spot Rate were excluded, having been already subject to detailed reviews³). The sample included examples of both widely used Benchmarks from three separate regions (EMEA, Americas, Asia/Pacific) and sector-specific Benchmarks. The breakdown of Benchmarks by asset class was as follows:

³ It should be noted that, in the reviews of Euribor, Libor, Tibor and WM/Reuters 4pm Closing Spot Rate, the approach by IOSCO was to analyse the implementation of each Principle in detail. As this Review was broader in scope and based on a sample of Administrators, this approach was not considered appropriate and a methodology was developed in order to identify any general themes.

Asset Class	Total Number of Benchmarks
Equity	11
Fixed Income	15
Commodity	6
Alternative ⁴	4
	36

The Review Team first looked into whether the Administrators of these Benchmarks had published any statements relating to the implementation of the Principles.

Following this initial analysis, the Review Team determined that it would need to contact the Administrators directly to progress the Review in line with the mandate for the Review approved by the IOSCO Board.

The Task Force, with assistance from the IOSCO Secretariat, sent letters to the Administrators of the selected Benchmarks on 31 October 2014. These letters invited the Administrators to provide responses to the following five questions:

- 1. What steps, if any, have you taken, or are you taking, to comply with the Principles, including public disclosure of the extent of compliance with the Principles?*
- 2. If you are not in full compliance with the Principles, please explain how far you believe your practices nonetheless meet the objectives and functions of the Principles. Please explain the extent to which you are relying on proportionate view of the Principles.*
- 3. If no steps have been taken, do you intend to take steps to comply with the Principles in the future and, if so, by when?*
- 4. If you do not intend to comply with the Principles, is this because you regard these Benchmark(s) as being out-of-scope of the Principles? Please explain the basis for your decision.*
- 5. If you regard these Benchmark(s) as being within the scope of the Principles but are not intending to comply with them, could you please explain the basis for this decision?*

The Review Team reviewed the responses received, especially focusing on the following issues:

⁴ This asset class covers a wide range of Benchmarks which can be very different in nature and underlying Interest.

- The reported state of compliance and identified disclosure of compliance;
- The Administrators' reported process to achieve compliance with the Principles;
- The Administrators' reported understanding and application of proportionality;
- Any reported planned measures to comply with the Principles in the future; and
- The reported reasons for any non-compliance.

The Review Team considered any trends or themes, including whether reported compliance varied by asset class.

The Administrators of the Benchmarks reviewed were requested to respond to the questionnaire by 21 November 2014. This Review covers the degree of implementation of the Principles by each of the administrators through to this date.

The Review Team stresses that the methodology for this Review did not include a process of challenging or substantiating information provided or published by the reviewed Administrators about their reported compliance with the Principles. Therefore, representations in this Report about compliance with the Principles by the Administrators should be taken as being based on the self-assessments of those Administrators.

1.7. Review Team

The Review was conducted by a Review Team, constituted in October 2014, by staff from the UK Financial Conduct Authority (**FCA**) (Chair), the Financial Services Authority (Japan) (**JFSA**) and the Australian Securities and Investments Commission (**ASIC**).

Members of the IOSCO Secretariat provided administrative support to the Review Team. The Task Force was consulted regularly throughout the Review process.

2. Key Findings

The level of response from Administrators of the Benchmarks reviewed was very high, with only one Administrator not providing any information. For those Administrators who provided information, almost all had either taken steps to assess their compliance with the Principles or had plans to undertake steps in the near future.

The area where Administrators state they have taken the most actions in relation to the Benchmarks reviewed is around governance; however the responses also indicated that a significant amount of work has been, or will be, done to review and, where appropriate, alter or enhance the design and methodology of many of the reviewed Benchmarks.

2.1. State of Compliance

The Review Team analysed the responses received from the Administrators of the Benchmarks in the sample and any public statements of compliance they had published to determine how they view their current state of compliance. The responses show a broad range in the level of compliance reported by Administrators and, in a number of cases, Administrators appear to be at different stages of implementation when looking across different Benchmarks they provide.

In terms of the underlying asset classes of the reviewed Benchmarks, Administrators of equity Benchmarks reported the highest level of compliance with almost all stating that their procedures are aligned with the Principles. This can be compared with commodity and fixed income Benchmarks for which under half of the Benchmarks reviewed reported that they are aligned with the Principles. Those Benchmarks included in the alternative category, which is the least represented asset class within the sample, demonstrated lower levels of compliance as a group.

Looking across the sample as a whole, of the 22 Administrators who provided responses or have published public statements, just over a third either state explicitly that they consider themselves to be fully compliant with the Principles or state that they have implemented policies and procedures which are aligned with the Principles and have practices which meet their objectives. In a number of cases, the Administrators have also commissioned external audits to assess these views.

Almost half of the Administrators who provided information to the Review Team are in the process of either implementing procedures in order to comply with the Principles or are still assessing their compliance. The current state of compliance of these Administrators varies considerably. Many Administrators report that they are in an advanced stage, either with only a small number of the Principles still to be fully complied with, or awaiting the findings of audits to see whether the processes which have been implemented are sufficient. On the other hand, there are also a number of Administrators in this group which state that they still have a significant amount of work planned in order to comply with all of the Principles. However most of these Administrators have an implementation plan in place which they expect to be completed within a year. It is not clear from the responses what level of compliance will be achieved by these Administrators at the end of the implementation process or whether proportionality will be applied, although several Administrators state that they expect to be fully compliant.

The Administrators described above, which either have reached what they consider to be a high level of compliance or which are taking steps towards compliance, constitute the majority of the respondents. Of the remaining respondents, a number provided information describing, in varying levels of detail, the policies and procedures which they have put in place for each Principle but do not state whether they considered these to constitute full compliance. There are also Administrators who have Benchmarks within the sample which are being transitioned to new Administrators or are in the process of cessation. For the Administrators referred to in this paragraph, the present state of compliance is unclear.

2.2. Reasons for Non-compliance

For those Administrators who stated that they are not taking steps towards compliance with the Principles, the main reported reason for this is that the Benchmarks in question are in the process of transitioning to new Administrators and, as a result, the new Administrators have

not had the appropriate opportunity to implement the Principles. Many of these Administrators stated their intention to take such steps in the near future, once the transition has taken place.

Outside of those Benchmarks, only one respondent stated that it has not taken any steps to implement the Principles although no reason was offered for this nor was there any indication as to whether or not there will be any steps taken in the future.

A number of Administrators stated that they do not intend to implement some particular Principles as they consider that they do not apply to their Benchmarks. However, these Administrators did not explain why this is the case.

Finally, there are two Benchmarks in the sample which at the point of review did not yet have an Administrator but were in the process of appointing one.

2.3. Process to achieve compliance

Steps undertaken as a result of the Principles

The Review found that there has been a significant level of activity since the publication of the Principles. Of the Administrators which provided information to the Review Team and are not in a transition process, almost all state that they have undertaken a review of their controls and procedures or are in the process of doing so.

Almost all respondents indicated that there has been work focused on ensuring that an appropriate level of governance is in place for their Benchmarks. For example one Administrator reported that it has appointed two additional non-executive directors to its Board to manage conflicts of interest, while many Administrators stated that they have established an oversight committee. Another Administrator, which said that it outsourced many of the administrative functions and processes to a third party, stated that in response to the publication of the Principles it has put in place new governance, oversight and accountability procedures in order to comply with Principle 1 (Overall Responsibility of the Administrator). Further to this, it reported that the third party has made significant changes in its control structure to allow for effective monitoring by the Administrator in line with Principle 2 (Oversight of Third Parties).

On the basis of the responses received, in most cases the design and Methodology of the Benchmarks in the Review appear to have been reviewed, formalised and, in some cases, enhanced since the Principles were published. In a number of cases, Administrators reported that they have overhauled their previous Benchmark design, moving from a Benchmark based on submissions to one based primarily on transaction data. There was one example of an Administrator which reported that it has created stronger criteria for determining the data used to underpin its Benchmarks and has discontinued producing those Benchmarks where these new criteria could not be met.

The Review Team found that, based on the responses received, both internal and external auditors have been used by several Administrators within the sample, with over a fifth of the Administrators stating that they made use of external accountants or law firms during parts of their reviews. There appear to be differences in the remits of the auditors, as some Administrators reported that their auditors have stated that they are in compliance with the Principles whereas other auditors appear to offer assurance that the published statements of

compliance are fairly stated but do not comment on the efficacy of the systems and controls in place. The audits also vary in their level of assurance, with examples of both limited and reasonable assurance.

Every Administrator which reported that they had commissioned audits of their statements of compliance had published the findings on their websites.

Statements of compliance

The Final Report requested that Administrators publically disclose their compliance with the Principles within twelve months of the publication of the Final Report, and annually thereafter. Of the Administrators of Benchmarks included in the sample, just under half had published public statements or copies of documents or reports which explain their level of compliance.

The majority of the Administrators of reviewed Benchmarks publish relevant information about their Benchmarks, including Methodologies, on their websites. In terms of their statements of compliance, however, the level of detail varies considerably. Of those Administrators which published a statement of compliance, about a third do not describe in detail how they have implemented the Principles or how they have used proportionality and are very brief, often less than a page long. Another third produced more detailed statements, usually including comments on each Principle and some details of what steps have been taken to comply and where further steps are necessary. The remaining statements are more comprehensive, detailing the processes used to comply with each Principle and have usually been written alongside an external auditor and include the findings of the audit in addition to the Administrator's own self-assessment.

Just over half of the Administrators reviewed have not published a statement of compliance, with a variety of reasons given for non-compliance. In a number of cases it was reported that the Benchmarks in question are or have been in the process of being transitioned to new Administrators and, as a result, that the new Administrators have not had the opportunity to either implement or assess their compliance with the Principles. In one such case the Administrator taking over the Benchmark stated in its response that it intends to comply with the Principles and that a statement of compliance will follow after transition.

Several Administrators reported that they have work ongoing to attain full compliance and that they plan to publish statements once this has been achieved. This is in contrast to a number of other Administrators which have published statements indicating what steps they have taken to date and where further work is needed.

A number of Administrators, including some which had not released a statement of compliance, have published on their websites, or stated that they intended to publish, their methodologies, codes of conduct (where applicable) and details of certain policies and procedures such as those covering whistleblowing.

2.4. Planned Measures for Future Implementation

All Administrators who noted that there were specific areas where they were not compliant stated that work was ongoing and that they intended to become fully compliant in the future. For many of these Administrators, the remaining work consisted of fine tuning their procedures and this was anticipated to be complete within a couple of months. There were a

number of Administrators where the remaining work was more substantial and where their aim was to be compliant by the end of 2015 or, in one case, 2016.

A number of Benchmarks in the sample were in the process of being migrated to new Administrators. In every case where a new Administrator had been identified, it was reported that they had either started work on complying with the Principles or had plans to be compliant by the time the Benchmark had transitioned to the new Administrator.

2.5. Administrators' Understanding of Proportionality

Exactly half of the responses received from Administrators make reference to an application of proportionality within their implementation of the Principles. There are reported differences in how proportionality has been applied, with some Administrators taking a proportionate approach to the implementation of specific Principles for all their Benchmarks and with others taking into account differences between the various Benchmarks they produce and applying proportionality to their implementation of the Principles to each Benchmark accordingly.

Whilst a number of Administrators stated explicitly that they have not applied proportionality, in cases where no reference to proportionality was made it is not clear whether this means that the Administrators have not taken a proportionate approach or whether they had simply not reported it.

It is of note that Administrators reported that they tend to apply proportionality to deal with challenges found when working to implement the Principles.

Applications of proportionality to specific Principles

Based on the responses which explicitly mention proportionality, the Principle which has seen the most applications of proportionality is Principle 14 (Submitter Code of Conduct). In a number of cases, Administrators have elected not to apply this Principle to a subset of their Submitters. In one such case, the determination of this subset is based on the nature of the data being provided and the underlying asset class. In particular, the Administrator does not apply Principle 14 to Submitters to equity Benchmarks or where the data provided is primarily from regulated exchanges. In another case, this subset is determined by a number of factors including the risk that applying the Principle could lead to the Submitter leaving the panel and the associated risk to the robustness of the Benchmark. It was not clear whether or not this concern had been borne out of discussions with Submitters or whether the Administrators had independently evaluated this to be a significant risk.

A number of Administrators raised points around conflicts of interest. Several stated that they do not have any conflicts of interest, although only one explicitly linked this claim to a proportionate application of Principle 3 (Conflicts of Interest). It is unclear in the other cases whether a proportionate approach has been taken as these Administrators have made no references to proportionality in either their responses or statements of compliance. Another approach taken to this Principle was mentioned by an Administrator who pointed to practical problems with the requirement to obtain sign-off on all determinations prior to publication due to the large number of determinations made daily, many of which are fully automated. In this case, the Administrator has instead put in place what it described as an adequate system of supervision and sign-off.

Proportionality has also been applied by some Administrators to Principle 18 (Audit Trail) again with a variety in the reporting on how proportionality is applied. One Administrator stated that it has implemented a policy on the archiving of data which partially complies with the Principles, as well as its regulatory obligations, however it stated that it does not believe that it is proportionate for it to store real-time data, as this is available from other public sources and there is no legal requirement in its home jurisdiction for such record keeping.

Other applications of proportionality reported by Administrators have been more isolated and were each mentioned by only one Administrator within the Review:

- One Administrator has applied proportionality to Principle 2 (Oversight of Third Parties) stating that publishing names of market data vendors and aggregators could pose an operational risk and that in its experience the terms between data vendors and Administrators are established by the vendors rather than the Administrators.
- Principle 6 (Benchmark Design) was mentioned in the context of proportionality by one Administrator in particular regarding parts (c) and (d) of the Principle which suggest Administrators take into consideration the market and volume of instruments referencing the Benchmark, as compared with the underlying market, when considering its design. The Administrator stated the objective of the design of its Benchmarks is to effectively represent the performance of certain markets or strategies and that information regarding the markets in instruments referencing its Benchmarks were not relevant for achieving this objective.
- One Administrator stated that it only uses transaction data as input data for its Benchmarks and that it does not use a hierarchy of inputs as referred to in Principle 8 (Hierarchy of Data Inputs). The same Administrator also mentioned it has applied proportionality to Principle 12 (Changes to the Methodology) stating that it will not be publishing any comments received during consultations as it felt that doing so would present a partial and unrepresentative view.
- Regarding Principle 9 (Transparency of Benchmark Determinations) one Administrator stated that it does not consider that it would be reasonable to provide all the information requested by the Principle. The Administrator stated that it has developed a number of metrics relating to the determination process which it publishes, where this is considered reasonable.
- Finally, one Administrator stated, in the context of proportionality, that it has found implementing Principle 13 (Transition), which relates to the potential cessation of a Benchmark, to be challenging. The Administrator did not, however, explain the nature of the challenges.

Disclosure of proportionality

The Final Report states that, if implementation in any way deviates from the Principles, the Administrators should publically explain why they believe they meet the objectives and functions of the Principles, including to the extent they are relying on a proportionate view of the Principles. Restricting attention to the Administrators who reported proportionality in their responses, the majority gave a description in their public statements of how

proportionality has been applied. A number of Administrators, however, did not make any reference to proportionality in their public statements.

3. Conclusions

The Final Report sets out that a *one-size-fits-all* approach to the Principles would not be appropriate and therefore that implementation of the Principles will not be identical for each Benchmark. The Review found that a significant number of Administrators appear to have engaged with the Principles on these terms, conducting gap analyses against the Principles and, in many cases using the findings to guide the implementation of new policies and procedures and using proportionality where they see this as appropriate. The Review also found that while the majority of Administrators have taken steps towards compliance, not all the Administrators have published statements of compliance.

3.1. Level of Implementation and Changes in line with the Principles

Almost all the Administrators of the Benchmarks within the sample gave an indication of having engaged in a thorough review of their processes in order to assess compliance with the Principles and many reported that they had implemented a number of changes as a result of these assessments.

The Principles relating to governance have received the most attention with several Administrators claiming that they have introduced or enhanced the functions of oversight committees as well as policies and training on conflicts of interest management and whistleblowing. Changes have also been reported at a senior level within Administrators of the Benchmarks reviewed, with assertions from some Administrators that their Boards are taking a stronger interest in the Benchmark-setting process and, in one case, changing its composition.

The Review also noted claims of changes by some Administrators to the nature and quality of data used in order to make Benchmark determinations. Significant steps reported in this area have included a number of Administrators moving from a submission-based Benchmark to a focus on transactions, where available. In one case an Administrator mentioned that it has wound down Benchmarks where it deemed the data quality to be inadequate.

It was noted that even in cases where the Administrators feel that they did not need to make changes in order to comply with the Principles, many commented that they have formalised their procedures as a result of assessing level of compliance. The reported intention is to enhance both the transparency and accountability of the Benchmark-setting process.

The Review Team therefore concludes that, based on the self-assessments provided by the Administrators of the reviewed sample, there has been a significant market reaction to the publication of the Principles, with widespread efforts being made to implement the Principles. However, it should be noted that, at the time of the Review, only about a third of Administrators of the Benchmarks reviewed had self-assessed these efforts as being complete.

3.2. Publication of information

While many of the Administrators reported that they have taken steps to review and enhance their processes as a result of the Principles, not all of these Administrators have made this public, as requested in the Final Report. The Review found that for half the Administrators of the Benchmarks within the sample, there was no public information available in their statements regarding compliance with the Principles. However some Administrators did state that they will be publishing details in the future and the majority have published their Methodologies.

3.3. Applying the concept of Proportionality

The Review found that proportionality has been reported to have been used by many Administrators, although there was divergence in how it has been applied. Several Administrators commented that when taking into account specific factors surrounding the nature of their corporate structure, Benchmark methodology and business model, it was necessary for them to apply the concept of proportionality in the implementation of the Principles. However, it was not always clear from the responses and statements of compliance by Administrators whether or not they have applied proportionality. Furthermore, in a number of cases where it was reported that proportionality has been applied, this is either not reflected in the public statements or, where it is, there is often not much detail into where proportionality has been applied and why. Another area where clarity was lost is where Administrators stated that they are “compliant” with the Principles; however it was not clear whether this compliance also took into account proportionality.

3.4. Transition of Benchmarks to new Administrators and Cessation of Benchmarks

The Review found that around a fifth of the Benchmarks within the sample are currently, or have recently been, in a process of cessation or transition to new Administrators. Based on information received, the transitions started after the publication of the Principles. For several of these Benchmarks, it was reported that the transition process is also a time when the methodology is reviewed and enhanced to become more in line with the Principles.

The sample includes an example of a Benchmark where the Administrator had elected to cease providing a number of tenors and another example where the Administrator was in the process of winding down the entire Benchmark. In these cases, the justification was that the quality of the underlying data has been reviewed and has been deemed insufficient to sustain a robust Benchmark.

3.5. Divergences in Implementation across Asset Classes

The Benchmarks within the sample can be separated into four asset classes: equities, fixed income, commodities and alternative. The distribution of the Benchmarks into these categories is contained in the table in section 1.6 of this Report.

The Review found that Administrators of equity Benchmarks claimed the highest level of compliance with almost all stating they were in full or broad compliance with the Principles. Similarly, all but one of the Administrators of an equity Benchmark in the sample have published a statement of compliance – most of which are fairly detailed.

The commodity and fixed income Benchmarks within the Review exhibit a significant amount of transition to new Administrators with around a third of those reviewed having either recently transitioned to a new Administrator or being in the process of doing so. All examples of cessation were observed in fixed income Benchmarks. In contrast, there are no examples of transition within equity Benchmarks reviewed. As many Administrators reported that transition has had an effect on their state of compliance, this may explain why equity Benchmarks have a higher level of compliance as compared to fixed income and commodities, for which under half in each case reported full or broad compliance. Similarly, only a handful of the Administrators of fixed income and commodity Benchmarks appear to have published any statements of compliance.

It is important to note that, of the four asset classes, the alternative category had the smallest sample size. This category covers a wide range of Benchmarks which can be very different in nature and underlying interest. Therefore it cannot be concluded that these Benchmarks are fully representative of the population of that asset class as a whole. However, it could be seen that the alternative Benchmarks reviewed had on average low levels of implementation, with one Administrator having taken no steps and another intending to be compliant by the end of 2016. This is also the only asset class to include an Administrator which did not respond to the questions sent as part of the Review. Nonetheless, there was one reviewed alternative Benchmark for which the Administrator reported full compliance and had published a statement of compliance.

3.6. Issues for Further Consideration

On consideration of the findings of the Review, the Task Force notes that the financial Benchmarks industry is in a state of change, as seen from the reported levels of administrators still working towards compliance with the Principles, as well as those Benchmarks reported to be in transition to new Administrators. The Task Force concludes that further steps may need to be taken by IOSCO in the future; however it is too early to say what those steps should be.

Annex 1 - Chart representing the steps towards compliance and detail of compliance statement for each of the reviewed Benchmarks

