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15 December 2017

Dear Mr Planta, Mr Aguesse, Mrs Gómez Yubero, Mrs Hunnable, Mr Kopp-Colomb, Mrs Tambucci and Mr Kimman,

Re: Industry update regarding the European Benchmarks Regulation¹

We would like to take this opportunity to thank you for your help in securing the clarifications that have recently been provided by the European Securities and Markets Authority in the form of Questions and

¹ Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014

Answers in relation to the European Benchmarks Regulation. Such clarifications are vital to our members' ability to design and implement compliance programmes to meet the regulation's requirements.

Article 28(2)

We also wanted to provide you with an update in respect of our members' work towards demonstrating compliance with Article 28(2) of the regulation. This provision requires supervised entities that use a benchmark to produce robust written plans setting out the actions they would take in the event that a benchmark materially changes or ceases to be provided. It provides that, where feasible and appropriate, such plans shall nominate one or several alternative benchmarks that could substitute the benchmarks no longer provided, indicating why such benchmarks would be suitable alternatives. It also requires supervised entities to reflect the plans in the contractual relationship with their clients.

Readiness to demonstrate compliance by 1 January 2018

Where members consider that they and their financial instruments may fall within the scope of the regulation, we understand that they intend to have robust written plans in place by 1 January 2018 setting out the steps they would take in the circumstances referred to in Article 28(2) and that those plans will be consistent with the contractual terms they put in place with their clients. Due to the ongoing discussions between industry and the regulatory community regarding the scope of the regulation, we expect that the creation and implementation of plans (including their reflection in contractual terms) will evolve during the course of 2018 as further regulatory clarity is provided.

Work of ISDA

An ISDA Working Group has been reviewing the standard terms widely used in documenting non-cleared OTC derivatives. Its preliminary conclusions show that for a number of products such terms are thought to fully contemplate the triggers referenced in Article 28(2). They are also considered to set out, in a considered and transparent way, any steps that would be taken if such triggers occurred.

There are certain products for which the ISDA Working Group is considering whether amendments are warranted in order to enhance their contractual robustness in light of Article 28(2). This work is very technical and, given the issues to be resolved (including attempting to avoid market disruption and mitigate transfer of economic value), requires considerable discussion and thought. It is particularly important to the adoption of such provisions that they seek to ensure an appropriate balance between the interests of all the parties involved. This discussion is taking place both in the ISDA Working Group and with non-ISDA members in order to ensure that as many views as possible are taken into account.

The ISDA Working Group intends to publish these amendments in the form of an ISDA Benchmark Supplement as soon as sufficient consensus is reached. The consensus seeking process will continue into 2018. Subsequent implementation would require amendments to member firms' systems and those of financial infrastructure providers (such as electronic confirmations systems) which have significant lead times. Our members regard this as an evolutionary process that will be diligently pursued.

It is important to recognise that some of the key benefits that can be obtained by the market-wide adoption of a standardised approach would not be available if firms elected to proceed unilaterally instead. To the extent different parties employ different fallback methodologies, basis risk is created within portfolios which would be detrimental to two of the regulation's major objectives: reducing systemic risk and improving transparency. We believe, therefore, that a measured and consensus based approach to improving fallbacks is both necessary and appropriate.

It is a pre-requisite to the finalisation and uptake of any amendments by market participants that the questions of scope relating to the regulation are resolved. This will highlight any possible basis risk between products which are in scope of the regulation and those which are out of scope to ensure that this is appropriately considered and mitigated where necessary.

Work of the broader industry

Beyond the scope of non-cleared OTC derivatives, the producers of standard documentation for other products may also intend to incorporate the terms of the ISDA Benchmark Supplement in whole or in part, while others may utilise different approaches which are more suited to the characteristics of their market. The interplay between these approaches will require careful consideration in order to mitigate and manage any resulting basis risk, for example, where OTC derivatives are used to hedge loans.

Securities issuance programs for floating rate notes and structured products often provide the option for the terms of notes to track the ISDA definitions to minimize basis risk between the securities issued and the corresponding hedging transaction. As a consequence, we understand that securities issuers wishing to match the terms of their note issuance with the ISDA definitions will need to wait until the finalization of the Supplement by ISDA in order to replicate or appropriately adapt any equivalent provisions in their issuance documentation (taking into account, where relevant, the timing of issues' anniversary date).

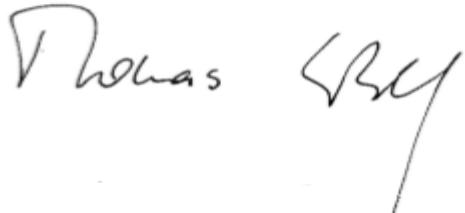
Conclusion

We trust that you will find the above update informative and the evolutionary nature of our members' efforts consistent with your approach to monitoring and enforcing compliance with the regulation. We would be very happy to speak with you in order to provide any further information or discuss any issues that arise. We wish to assure you of our collective commitment to the on-going facilitation of compliance with the European Benchmarks Regulation.

Yours sincerely,



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About AMAFI

Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It mainly acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI has more than 140 members operating for their own account or for clients in equities, fixed-income products and derivatives. Nearly one-third of its members are subsidiaries or branches of non-French institutions.

www.amafi.fr

About EUSIPA

EUSIPA was founded in 2009 and bundles the issuers of structured investment products in main European markets, amongst them all major banking groups active in the Eurozone, UK and Switzerland. At the end of the September of 2017 the markets in structured products as covered by EUSIPA had a year to date volume of 87.2 billion Euros in turnover, counted 1.7 million products in total and had an invested volume (assets under management) of at least 257 billion Euros. More information on EUSIPA can be found on the website www.eusipa.org

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 875 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers.

Information about ISDA and its activities is available on the Association's website: www.isda.org.