*Public Comment on **Financial Benchmark Principles***

Argus Media's response to the
IOSCO Consultation Report on Principles for Financial Benchmarks

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Please find below Argus Media's comments on the IOSCO *Consultation Report on Principles for Financial Benchmarks.*

Executive summary

1. **A specific framework is already in place agreed at the international level for oil benchmarks published by PRAs, and recommended by IOSCO as suitable for all commodity benchmarks.** IOSCO's *Principles for Oil Price Reporting Agencies* (the PRA Principles)[1] published in October 2012 are specifically designed for benchmarks published by PRAs[2], having been endorsed by G20 following consensus reached by IOSCO, the International Energy Agency (IEA), the International Energy Forum (IEF) and the Organisation of the Petroleum Exporting Countries (Opec). The PRA Principles were agreed after two years of consultations that resulted in language that is appropriate to the activities of PRAs — which IOSCO stated do not raise systemic risks to the global financial system — and that takes into account the particular features of PRAs and commodity markets. The PRA Principles represent a specific framework agreed at an international level in relation to PRAs and the commodity benchmarks published by them. The implementation of the PRA Principles, already under way at Argus Media for many months, is part of an 18-month evaluation period set by IOSCO and the partner international organisations. Any changes or supplementary actions required of the PRAs before the outcome of this evaluation period are by definition premature and therefore unjustified in the circumstances.

2. **A number of the draft Principles for Financial Benchmarks, characterised as "supplemental" to the PRA Principles, are in fact inconsistent with and were rejected in the context of the PRA Principles, as they do not reflect the specificities of commodities markets or the journalistic operations of the PRAs.** Argus Media is concerned that certain of the draft Principles for Financial Benchmarks are inconsistent with and seek to reintroduce provisions that were considered and ultimately rejected in the context

[1] IOSCO FR06/12, http://www.iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf

[2] Argus Media does not determine which of its price assessments from its various publications are used as benchmarks — it is the market itself that makes this decision. For the purposes of this submission, the shorthand "Argus Media benchmark", "benchmark published by Argus Media" and similar expressions refer to a price assessment published by Argus Media which market participants have themselves chosen to use as a benchmark to settle the value of commodity derivative contracts.

of the PRA Principles in recognition of the wholly voluntary nature of commodity market participants' interactions with PRA price reporting processes and the real concern that market participants would reduce or withdraw entirely from providing PRAs with market data. If implemented, those draft principles would damage commodity markets, because such withdrawal of market participants from providing PRAs with market data would reduce transparency in commodity markets, hinder price discovery and undermine the integrity of PRA commodity benchmarks. The principles in question include many of the detailed requirements regarding the "Submitter Code of Conduct" as well as a provision that would compel PRAs to report to regulators any submitted information identified by the PRA as anomalous or suspicious. Argus Media therefore believes that the additional measures referred to in Consultation Question 2, as well as certain other aspects of the draft Principles for Financial Benchmarks, are inappropriate for PRAs, are not proportionate and would harm commodity markets were they applied to them.

3. **In cases of inconsistency or direct conflict between the Principles for Financial Benchmarks and the PRA Principles, Argus Media asks IOSCO to confirm that the latter should prevail in relation to PRA commodity benchmarks.** Argus Media is concerned at the potential confusion for PRAs and commodity markets, and for national supervisory authorities faced with two sets of overlapping and sometimes conflicting principles. The PRA Principles represent a specific framework agreed at the international level that has been carefully tailored to PRAs and the commodity price benchmarks published by them. In contrast to the specific focus and requirements of the PRA Principles, the Principles for Financial Benchmarks represent a general framework in relation to any and all benchmarks under a proposed definition of benchmarks that Argus Media considers is overly broad. As noted above, this general framework does not reflect the specificities of commodities markets or the characteristics of the PRAs reporting on those markets. Argus Media respectfully requests that PRAs be exempt from the application of the Principles for Financial Benchmarks either in their entirety or at least where the two sets of principles are inconsistent or conflict, to ensure that the PRA Principles and the significant work and cost involved in implementing the PRA Principles are not disrupted or otherwise undermined.

General comments on the consultation report on Principles for Financial Benchmarks

1. A specific framework is already in place agreed at the international level for oil benchmarks published by PRAs, and recommended by IOSCO as suitable for all commodity benchmarks

PRA commodity price benchmarks have already been found in IOSCO consultations and the UK Wheatley Review of Libor to have significantly different characteristics from benchmarks such as Libor. Further, as has been repeatedly and correctly stated throughout all of the consultations regarding PRA benchmarks and financial benchmarks more generally, a one-size-fits-all approach will not work.

IOSCO's *Principles for Oil Price Reporting Agencies* (the PRA Principles) published in October 2012 are specifically designed for benchmarks published by PRAs, having been endorsed by G20 following consensus reached by IOSCO, the IEA, the IEF and Opec. The PRA Principles were agreed after lengthy consultation that resulted in language that is specific to the activities of PRAs — which IOSCO stated do not raise systemic risks to the global financial system — and that takes into account the particular features of PRAs and commodity markets. The implementation of the PRA Principles, already under way at Argus Media for many months, is part of an 18-month evaluation period set by IOSCO[3]. Any changes or supplementary actions required of the PRAs before the outcome of this evaluation period are by definition premature and therefore unjustified in the circumstances.

In contrast to the specific focus and requirements of the PRA Principles, the draft Principles for Financial Benchmarks represent a general framework in relation to any and all benchmarks under a proposed definition of "Benchmark" that Argus Media believes is too broad. Argus Media notes that

[3] See Appendix A: The PRA benchmark workstream

many of the respondents' main concerns in the first round of consultation have not been addressed, such as the overriding concern that IOSCO must avoid a one-size-fits-all approach. The Principles for Financial Benchmarks may be proportionate to the systemic risk posed by failed benchmarks such as Libor and similar interest rate benchmarks, but they are not proportionate with respect to PRA commodity benchmarks. Unfortunately, the consultation report makes no further attempt to refine which benchmarks should be within scope. This approach fails sufficiently to distinguish between benchmarks that present systemic risks to global financial markets and those that have by comparison a small degree of market impact and usage and pose no systemic risk. As a result, many of the draft Principles are not realistic or proportionate for such wide application.

In circumstances where no failure has been identified with respect to the PRA Principles currently being implemented and no further analysis or impact assessments have been carried out in relation to PRAs (which are entirely different from Libor), there is no clear basis for IOSCO to introduce additional principles at this stage to apply to PRA commodity benchmarks. Argus Media strongly cautions against the introduction of principles at any time that are inconsistent with the PRA Principles, or which will potentially undermine the integrity of PRA benchmarks, or lead to significant damage to transparency in commodity markets.

2. Inconsistency and direct conflict between the Principles for Financial Benchmarks and the PRA Principles

Argus Media notes IOSCO's comment that the draft Principles for Financial Benchmarks are intended to be supplemental (to the PRA Principles). While it is true that they are "supplemental", ie not included in the existing PRA Principles, in the case of certain principles this is because the ideas they represent were discussed and rejected during the consultation on the functioning and oversight of PRAs. In other words, these ideas — now raised as "supplemental" — were deliberately excluded from the final PRA Principles as recently as October 2012.

This produces a number of undesirable outcomes. For example, it creates uncertainty regarding assurance audits required of PRAs by the PRA Principles. The Principles for Financial Benchmarks also require assurance audits. It is unreasonable and unworkable to expect a PRA to carry out two assurance audits against two separate sets of principles where there is overlap between the principles but where differences in language result in different meanings. Moreover, if the differences and inconsistencies are not addressed, PRAs will be required to implement conflicting principles, placing them in an untenable position.

It is vitally important that the Principles for Financial Benchmarks do not conflict with the PRA Principles and that the work to implement the PRA Principles is not disrupted by the workstream on Principles for Financial Benchmarks, which are not tailored to the specific characteristics of PRAs and the commodity benchmarks they publish.

Argus Media notes that:

i. The PRA Principles are valid for all PRA commodity benchmarks, not just oil benchmarks. This is made clear where the IOSCO *Final Report on Principles for Oil Price Reporting Agencies* notes that "although the PRA principles were developed in the context of PRAs and oil derivatives markets, PRAs are encouraged to implement the principles more generally to any commodity derivatives contract that references a PRA assessed price";

ii. There are discrepancies between the PRA Principles and the Principles for Financial Benchmarks that, among other things, reflect their different provenances. International commodity markets have different characteristics to interest rate markets. Several provisions in the Principles for Financial Benchmarks are incompatible with the price reporting processes reviewed in the context of the PRA Principles and in particular the voluntary nature of "submissions" to PRAs and would damage commodity markets and undermine the integrity of PRA benchmarks if applied to them;

iii. It is too early to consider replacing, or amending, the PRA Principles. Acting prematurely risks causing unintended damage to international commodity markets and unnecessarily disrupting the implementation of the PRA Principles; and

iv. The PRAs are fully committed to the successful implementation of the internationally agreed PRA Principles process. The PRAs are taking a number of actions including:
    - Fully aligning their operating procedures with the PRA Principles;

- Responding to IOSCO's implementation questionnaire on the PRA Principles;
- Finalising the *IPRO Code*, as foreshadowed in IOSCO's *Final Report* on *Principles for Oil Price Reporting Agencies"* (FR06/12 p5, note 7); and
- Liaising with the Institute of Chartered Accountants in England and Wales (ICAEW), as well as with individual accounting firms, to establish an assurance framework that will underpin the PRA Principles. ICAEW is scheduled to present an update of this workstream to IOSCO in June.

It is reasonable for Argus Media, other PRAs and relevant stakeholders to expect IOSCO to demonstrate its own commitment to the PRA Principles and the evaluation period recommended by IOSCO itself. This is particularly the case in the absence of any clear evidence that a departure from or change to the PRA Principles is necessary and given that Argus Media — a medium-sized publisher that has already committed significant resources to co-operating with the IOSCO PRA Principles workstream — has already acted on the recommendations of IOSCO. The PRA Principles are a tailored framework for PRA commodity benchmarks and take account of the voluntary nature of reporting to PRAs.

It is unreasonable to burden commodity market PRAs with additional requirements that are inconsistent with and/or significantly additional to the PRA Principles. The "supplemental" proposals have either been previously rejected in the context of PRA commodity benchmarks and/or have not been subjected to a thorough and transparent cost-benefit analysis. No clear rationale has been put forward for introducing a further set of principles that would extend to PRAs and disrupt the implementation and evaluation period that is already under way in respect of the PRA Principles. The failure of Libor and similar interest-rate benchmarks, of which regulators were aware throughout the work to develop the PRA Principles, is not a proper or valid justification for imposing further principles on PRAs or for departing from the language of the PRA Principles. Before any new Principles for Financial Benchmarks can be applied to commodity markets and PRAs, the impact should first be assessed by all market stakeholders, including the IEA, IEF and Opec, as has occurred throughout the G20-mandated and agreed PRA Principles process.

Argus Media wishes to stress that it is particularly concerned about two aspects of the proposed Principles for Financial Benchmarks that are in direct conflict with IOSCO's previous work on the PRA Principles, and which would undermine the agreement reached in the PRA Principles workstream, which involved substantial and lengthy consultation. These two aspects are:

1. Submitter Code of Conduct, particularly principle 13 c) d) and g), but also including all other references to this code of conduct (eg in related principles 4 b)-c), 10, 5 b)-c) and 17 regarding when "a benchmark is based on submissions"); and
2. Internal oversight principle 5 d) under "where a benchmark is based on submissions", which calls on PRAs to report anomalous or suspicious submissions.

These parts of the proposed Principles do not work because, as the IOSCO *Final Report on Principles for Oil Price Reporting Agencies* recognises, market participants provide information to PRAs on a wholly voluntary basis:

> "It is important to understand that these principles recognise that there is no requirement on any physical market oil participant to submit transaction data to PRAs. Because data are submitted on a voluntary basis, precipitous regulation of PRAs or requirements that oil market participants who submit data to PRAs submit all of their transaction data potentially could result in some oil market participants to decrease or even cease their submission of data to PRAs" (FR06/12, p8 and p34).

This was discussed at length with IOSCO and the other international organisations as part of the consultation process leading up to the publication of the PRA Principles.

As currently drafted, the Submitter Code of Conduct and the related oversight and enforcement requirements in the proposed Principles for Financial Benchmarks are incompatible with the voluntary nature of information flow between PRAs and commodity market participants and would damage commodity markets by reducing the flow of information to PRAs, undermining market transparency, hindering price discovery and damaging the integrity of PRA commodity benchmarks.

3. **Conclusion: In cases of inconsistency or direct conflict between the Principles for Financial Benchmarks and the PRA Principles, Argus Media asks IOSCO to confirm that the latter should prevail in relation to PRA commodity benchmarks**

Argus Media respectfully asks IOSCO to make clear that where there is contradiction, inconsistency or uncertain overlap between the two sets of principles, the PRA Principles prevail, as the specific, tailored pre-existing framework for PRA commodity benchmarks. Argus Media respectfully argues that this is the only reasonable way to address these concerns. Articulation of this could be through full exemption from the Principles for Financial Benchmarks (for example by excluding PRA commodity benchmarks from the definition of "benchmark"), exemption from relevant provisions of the Principles for Financial Benchmarks, or a statement from IOSCO confirming that the PRA Principles prevail as a tailored framework on the basis of policy equivalence between the two sets of principles.

Argus Media has set out below its responses to the consultation questions. Its answers focus mainly on the issue of principles specifically referring to "where or when a benchmark is based on submissions", because this element of the proposed Principles for Financial Benchmarks is the most significant departure from the PRA Principles, leading to the greatest risk of uncertainty, disruption and misalignment. In particular, Argus Media has focused on question 2 regarding a code of conduct for submitters. However, discrepancies between the PRA Principles and the Principles for Financial Benchmarks are not limited to the area of submissions and Argus Media's answers to the consultation questions highlight some of the additional inconsistencies and conflicts between the two sets of principles.

Argus Media responses to consultation questions

1. **Equity indices**: Indices may be used to measure a wide range of underlying Interests, using a variety of calculation methodologies and inputs. In the specific case of equity indices, inputs are typically based on transactions concluded on Regulated Markets. In light of this: are there any principles or parts of the principles that cannot, or should not, be applied to equity indices? If so, please identify these principles and explain why their application is inappropriate.

Argus Media does not publish equity indexes and has no comment to make on this question.

2. **Additional measures to address risks resulting from Submission-based Benchmarks or ownership or control structures:** Additional measures have been specified within certain principles to address specific risks arising from a reliance on Submissions (principles 4, 10, 13 and 17) and/or from ownership or control structures (Principles 2, 5 and 16).

a. Should these additional requirements apply to Submitters and Administrators of all submission-based Benchmarks or Benchmarks with the specified ownership/control structures?

b. If not, please explain why all or some submission-based Benchmarks or Benchmarks with the specified ownership/control structures should be exempt.

No. These additional requirements should not apply to PRAs. The PRA Principles should prevail over the Principles for Financial Benchmarks so that those parts of principles 4 b)-c), 10, 13, 17 and 5 b)-d) regarding when "a benchmark is based on submissions" do not apply to PRA commodity benchmarks.

Principle 13
PRA benchmarks should be exempt from certain additional measures for submission-based benchmarks. Of primary concern to Argus Media is draft principle 13 of the Principles for Financial Benchmarks regarding the Submitter Code of Conduct and related references to this code.

As currently drafted, Principle 13 is inappropriate in the specific case of PRA commodity benchmarks for all of the reasons given above regarding the voluntary nature of market participants' contact with Argus Media reporters and editors, and the inability of PRAs to enforce such a code.

A clear example of the conflict with the PRA Principles is draft Principle 13 (g) xi, which states that the Submitter Code of Conduct should cover "procedures and policies, including prohibitions on the Submission of data from front office functions". This is in direct conflict with PRA Principle 2.4c[4], which says data may be "received directly from a trader", as is appropriate for PRAs reporting on physical commodity markets.

Many smaller commodity market participants are not conveniently organised into front, middle and back offices. Such submitters would not recognise the terminology of "front office" as used in the draft Principles for Financial Benchmarks. By way of illustration, many airlines do not generally have "trading" departments, and their fuel purchasing operations cannot be divided into "front office" and "back office". A fuel procurement manager is responsible for procuring fuel on the wholesale market, and this individual may participate in providing a PRA with market data. Similarly, an independent power station will have a fuel procurement manager purchasing coal or gas from the wholesale market, while a steel manufacturer will have a procurement manager purchasing power from the wholesale market. It would be wholly unrealistic to expect any of these and similar organisations to be able to comply with many of the draft Submitter Code of Conduct provisions. Some wholesale market sources in niche markets, such as regional importers in LPG markets, may have only 20 staff in total, comprising a procurement manager, a two-person finance unit, five sales staff and 10 delivery vehicle drivers.

In all these cases and others, it is inconceivable that these important sources of market data could comply with requirements including having:

i. "Procedures to detect and evaluate suspicious inputs or transactions, including inter-group transactions, and to ensure the Bona-Fide nature of such inputs, where appropriate;"
ii. "Policies guiding and detailing the use of Expert Judgment, including documentation requirements;"
iii. "Pre-Submission validation of inputs, and procedures for multiple reviews by senior staff to check inputs;"
iv. "Suspicious Submission reporting;"
v. "Internal sign off procedures by management for submitting inputs;" and
vi. "Conflicts of interest procedures and policies, including prohibitions on the Submission of data from front office functions, the physical separation of employees and reporting lines where appropriate, the consideration of how to identify, disclose, manage, mitigate and avoid existing or potential incentives to manipulate or otherwise influence data inputs (whether or not in order to influence the Benchmark levels), including, without limitation, through appropriate remuneration policies and by effectively addressing conflicts of interest which may exist between the Submitter's submission activities (including all staff who perform or otherwise participate in Benchmark Submission responsibilities), and any other business of the Submitter or of any of its affiliates or any of their respective clients or customers."

Many commodity market sources would be unable to comply. And many others would will be unwilling. In view of the voluntary nature of providing data to PRAs, this would dramatically reduce the amount of market data provided to PRAs as well as the ability to verify all information received through interrogating the data and crosschecking transactional data with market counterparties. This would damage commodity market transparency and undermine the integrity of PRA commodity benchmarks.

[4] PRA Principle 2.4c: A PRA should "specify the criteria applied to employees of a submitter who are permitted to submit market data to a PRA on behalf of a submitter; encourage submitters to submit transaction data from back office functions and seek corroborating data from other sources where transaction data is received directly from a trader"

Argus Media believes that few market participants could or would comply with the Submitter Code of Conduct as drafted and Argus Media notes that draft Principle 13 requires PRAs to only use data provided by "submitters" who have adhered to the code.

The PRA Principles already include numerous provisions regarding submitters. These include requirements for PRAs to:

> "Encourage parties that submit any market data ("submitters") to submit all of their market data that falls within the PRA's criteria for that assessment" (2.2e);
>
> "Employ a system of appropriate measures so that, to the extent possible, submitters comply with the PRA's applicable quality and integrity standards for market data" (2.2f);
>
> "Specify the criteria that define who may submit market data to the PRA" (2.4a);
>
> "Have quality control procedures to evaluate the identity of a submitter and any employee(s) of a submitter who report market data and the authorization of such person(s) to report market data on behalf of a submitter" (2.4b);
>
> "Specify the criteria applied to employees of a submitter who are permitted to submit market data to a PRA on behalf of a submitter; encourage submitters to submit transaction data from back office functions and seek corroborating data from other sources where transaction data is received directly from a trader" (2.4c);
>
> "Implement internal controls and written procedures to identify communications between submitters and assessors that attempt to influence an assessment for the benefit of any trading position (whether of the submitter, its employees or any third party), attempt to cause an assessor to violate the PRA's rules or guidelines or identify submitters that engage in a pattern of submitting anomalous or suspicious transaction data. Procedures should include provision for escalation by the PRA of inquiry within the submitter's company. Controls should include cross-checking market indicators to validate submitted information" (2.4d).

Whereas Argus Media is vitally interested in its sources engaging in quality control measures, no commodity PRA has the authority or power to *require* that Submitters abide by the Submitter Code of Conduct as currently drafted. It must be emphasised again that "submitters" to Argus Media are journalists' market sources, who provide information voluntarily. These sources work for companies in many jurisdictions, often without the scale and resources to have a front and back office structure. Whereas IOSCO has previously recognised that all market information provided to Argus Media and other PRAs is on a voluntary basis, that recognition is absent in the context of the Submitter Code of Conduct as currently drafted and the role IOSCO seeks to impose on PRAs in relation to such a code. If the proposed code were to be imposed on submitters through their voluntary engagement with PRAs, this would result in commodity market participants decreasing or even ceasing their submission of data to PRAs. This would damage commodity market transparency and undermine the integrity of PRA commodity benchmarks.

This problem is exacerbated by the proposal that, when a benchmark is based on submissions, the benchmark provider's internal oversight function should establish measures to address breaches of the Submitters Code of Conduct and to report such breaches to regulatory authorities. Concerns over the response of submitters to precipitous regulation and concerns over PRAs' position as media organisations with respect to an oversight or supervisory role are by now well understood by IOSCO and have been expressed by market participants and market authorities alike throughout the discussions concerning the PRA Principles. It is difficult to understand, therefore, why IOSCO is now proposing principles that have been previously rejected from the specific framework designed by IOSCO for PRA commodity benchmarks.

Principle 4

Two subsections in principle 4 under the section "where a benchmark is based on submissions" relate to and support principle 13 and are of resulting concern:

- Principle 4 states that "administrators" should specify "how frequently inputs or Submissions should be made, and that inputs or submissions should be made for every benchmark determination" (CR04/2013 4 c), p15). As an independent media company, operating in an area in which all market information is provided voluntarily by market participants, Argus Media cannot compel or dictate to market sources the frequency or totality of their provision of market data. This requirement is fundamentally incompatible with the specific case of PRAs and commodity markets.
- Principle 4 calls for "administrators" to implement "a system of appropriate measures so that, to the extent possible, Submitters comply with the Submission guidelines, as defined in the Submitter Code of Conduct" (CR04/2013 4 b), p15). Many of the "Submission guidelines" are not workable and as a result, Argus Media cannot reasonably be expected to ensure compliance with them. Measures to make submitters comply would damage market transparency and benchmark integrity.

The PRA Principles recognise these facts and should prevail over the parts of principle 4 addressed above. This would effectively exempt PRA commodity benchmarks from these elements of the Principles for Financial Benchmarks.

Principle 5

Elements in this principle under the section "where a benchmark is based on submissions" cause concern:

- Principle 5 states that among roles proposed for the oversight function is "overseeing the Code of Conduct for Submitters"(CR04/2013 5 b), p16), and "establishing effective arrangements to address breaches of the Code of Conduct for Submitters" (CR04/2013 5 c), p17). As explained above, as a media organisation using data provided on a voluntary basis, it is inappropriate for Argus Media to take on an oversight and supervisory role. This has been previously discussed with IOSCO and the international organisations and the PRA Principles have been specifically drafted to reflect this. PRA Principles 2.2 and 2.4 should therefore prevail over the Principles for Financial Benchmarks regarding submissions. This would effectively exempt PRA commodity benchmarks from these elements of the Principles for Financial Benchmarks.
- Principle 5 also states that another role proposed for the oversight function is "establishing measures to report any misconduct by Submitters of which it becomes aware, and any anomalous or suspicious Submissions to the relevant Regulatory Authorities" (CR04/2013 5 d), p17). This is incompatible with Argus Media's status as a media organisation and in direct conflict with the PRA Principles. IOSCO has already stated that PRAs "have no legal duty to investigate or detect fraud and […] may well not see the entire context in which a transaction is submitted"[5]. The proposed Principles for Financial Benchmarks would impose requirements on PRAs that have already been rejected as unworkable for PRAs and commodity markets. The PRA Principles require PRAs to provide reasonable co-operation with market authorities carrying out their regulatory duties in accordance with applicable law[6]. There is a significant difference between a requirement to provide co-operation with regulators and a requirement to oversee, supervise and report on compliance with a code of conduct applicable to third parties. Requiring a PRA to report in the way outlined in draft principle 5 d) (p17) is incompatible with constitutional protections afforded to journalism in the US, EU member states and many other countries.

Principle 10

Principle 10 deals with issues that have already been tackled in the PRA Principles in an appropriate manner. PRA Principle 2.4 makes no reference to "provisions related to changes in composition" of market sources "including notice periods", because the PRA Principles recognise that market sources are always changing in composition, making the idea of notice periods impossible for PRAs to comply

[5] IOSCOPD406.PDF

[6] PRA principle 2.20: "Cooperation with Regulatory Authorities – Audit trails, other documentation required by these principles and all other relevant information shall be readily available to market authorities in carrying out their regulatory duties and handed over without delay in accordance with applicable law."

with. The PRA Principles in this case should prevail over the Principles for Financial Benchmarks. This would effectively exempt PRA commodity benchmarks from these elements of the Principles for Financial Benchmarks.

Principle 17

Principle 17 requires submitters to retain extensive records, specific elements of which many commodity market participants would not be able to comply with and would rather cease to provide information to PRAs. A reduction in information provided would damage commodity market transparency and undermine the integrity of PRA commodity benchmarks, damaging commodity markets. These requirements are of concern to Argus Media because related parts of the Principles for Financial Benchmarks suggest that it is required to oversee the Submitter Code of Conduct including submitters' record keeping and because it is prevented from using market data provided by any submitter that has not complied with these elements of the Submitter Code of Conduct. Argus Media cautions against imposing unworkable and disproportionate obligations on submitters and PRAs reporting on commodity markets.

Conclusion regarding question 2

The tailored measures agreed at international level in the PRA Principles should prevail over the more generalised framework of the Principles for Financial Benchmarks in the case of conflicting requirements, especially regarding principle 13, related principles 4 b)-c), 5 b)-c), 10 and 17 when "a benchmark is based on submissions", and 5 d) related to reporting of anomalous or suspicious submissions. Ensuring that the IOSCO PRA Principles prevail in these cases over the Principles for Financial Benchmarks, effectively exempting PRA commodity benchmarks from these specific principles, would provide clarity, certainty, reassurance and confidence in PRA commodity benchmarks.

3. **Notice Concerning Use of Expert Judgment:** Should Administrators be required to briefly describe and publish with each benchmark assessment:

a. a concise explanation, sufficient to facilitate a User's or Market Authority's ability to understand how the assessment was developed, terms referring to the pricing methodology should be included (e.g., *spread-based*, *interpolated/extrapolated* or *estimate-based*); and

b. a concise explanation of the extent to which and the basis upon which judgment (i.e. exclusions of data which otherwise conformed to the requirements of the relevant methodology for that assessment, basing assessments on spreads, interpolation/extrapolation or estimates, or weighting bids or offers higher than concluded transactions etc.), if any, was used in establishing an assessment.

Argus Media is implementing PRA Principles 2.3(a) and 2.3(b), which use the same language as question 3 of the current consultation report.

4. **Revisions to the principles**: Please provide any suggested changes to specific principles or definitions of key terms set out in Annex A, including drafting proposals and rationale**.**

For the purposes of this response, Argus Media has focused its attention on those draft principles which, if implemented as drafted, would cause a material detrimental impact on PRA commodity benchmarks, in particular through damage to the voluntary process of providing data to PRAs. But Argus Media notes that various drafting changes may be required and, in particular, the definition of "benchmark" in Annex A requires further detailed consideration by IOSCO because it is overly broad. Argus Media also notes that Principle 18 is not fully aligned with PRA Principle 2.20 and again recommends that the PRA Principles should therefore prevail in this case.

Please do not hesitate to contact me in the event of any questions or to discuss further any aspect of Argus Media's response.

Yours sincerely,

Simon Smith

Head of government and regulatory affairs
Argus Media Ltd

APPENDIX A: The PRA benchmark workstream

The price reporting agencies (PRAs) are actively engaged in implementing the IOSCO *Principles for Oil Price Reporting Agencies* (the PRA Principles) in close cooperation with IOSCO Committee 7 during an agreed 18-month evaluation period.

The IOSCO Committee 7 *Implementation Questionnaire* of 21 March begins with a clear synopsis of the IOSCO PRA workstream, reproduced below in full.

> "In October 2012 IOSCO published a final report *Principles for Oil Price Reporting Agencies* (Oil PRA Report), which detail a set of recommended practices for PRAs that produce assessments which are referenced by oil derivatives contracts.[1] That report is the IOSCO Board's response to the G20 Leaders' Cannes Summit Final Declaration (2011) for work relating to oil price reporting agencies (PRAs) for *"…Recognising the role of Price Reporting Agencies for the proper functioning of oil markets, we ask IOSCO, in collaboration with the* International Energy Forum ("IEF"), International Energy Agency ("IEA"), Organisation of Petroleum Exporting Countries ("OPEC") *to prepare recommendations to improve their functioning and oversight to our Finance Ministers by mid-2012*", and the G20 Leaders' Los Cabos Declaration.[2]
>
> Although the PRA principles were developed in the context of PRAs and oil derivatives markets, PRAs were encouraged to implement the principles more generally to any commodity derivatives contract that references a PRA assessed price without regard to the nature of the underlying.
>
> The PRA principles establish a benchmark against which market authorities[3] can determine whether a PRA assessed price referenced or proposed to be referenced in an oil derivatives contract has been constructed under procedures that reflect the PRA principles.
>
> In its report, IOSCO adopted the following approach to implementation of the principles:
>
> 1. Voluntary adoption and implementation of the principles by PRAs in their internal policies and procedures and/or through industry codes; and/or
>
> 2. The use by a market authority of its rule approval and/or review authority over derivatives contracts, as appropriate, to refuse admission to exchange trading or central clearing of any oil derivatives contract that references a PRA-assessed price which, in the opinion of the market authority, has been developed under policies and procedures that do not reflect effective implementation of the PRA principles and call into question the reliability of an assessment.
>
> The Oil PRA Report provided that "IOSCO, in collaboration with the IEA, IEF and Opec, will review the extent of implementation over the next 18 months" (ie, since the October 5, 2012 publication date). Such a review will evaluate the degree to which the principles have been implemented by PRAs and the principles' impact. In assessing implementation, IOSCO will seek to obtain the input of market authorities, stakeholders, and PRAs on the degree to which the principles have been implemented, and may make further recommendations as appropriate at the end of the evaluation period.

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[1] FR06/12 *Principles for Oil Price Reporting Agencies*, Report of the Board of IOSCO http://iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf. Price reporting agencies were defined in the report as: *"Publishers and information providers who report prices transacted in physical and some derivatives markets, and give an informed assessment of price levels at distinct points in time. PRAs also report news stories relevant to the commodity markets." The report focused on PRA assessments in oil.*

[2] *G20 Leaders' Cannes Summit Final Declaration (November 2011)*, ¶56
http://www.g20.org/images/stories/docs/eng/cannes.pdf;
*G20 Leaders' Los Cabos Declaration (*June 18-19)
¶62, http://g20.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012_1.pdf
We also look forward to IOSCO's recommendations to improve the functioning and oversight of Price Reporting Agencies in November 2012, which will be produced in collaboration with other mandated organizations (IEF, IEA and OPEC), and task Finance Ministers to take concrete measures in this area as necessary.

[3] "Market Authority" is defined as a governmental regulator, a self-regulatory organization, a regulated market or a clearing organization. *See* Appendix "A" Glossary of Common Terms attached (from the Oil PRA Report).

At its Mexico City meeting in November 2012, the G20 welcomed the recommendations contained in the Oil PRA Report and asked IOSCO to liaise with the IEA, IEF and Opec to assess the impact of the principles on physical markets and report back.[4]

IOSCO intends to work co-operatively with PRAs to achieve implementation of the principles set out in this report".

Separately, and as recorded in the IOSCO press release dated 16 April regarding the present consultation on the Principles for Financial Benchmarks:

"The IOSCO Board created a Task Force in September 2012 to develop these principles in light of investigations and enforcement actions regarding attempted manipulation of major interest rate benchmarks. Those investigations and enforcement actions raised concerns over the fragility of certain benchmarks, caused by vulnerabilities in their methodology, transparency and governance arrangements."

The provenances of the two IOSCO workstreams are therefore entirely different. The continuing PRA workstream relates to "any commodity derivatives contract that references a PRA assessed price without regard to the nature of the underlying"[5] while the Financial Benchmarks workstream was born out of a response to irregularities in interest rate benchmarks such as Libor and Euribor.

[4] Communiqué of Meeting of the G20 Finance Ministers and Central Bank Governors, Mexico City, November 5, 2012 http://www.g20.org/load/780984360
[5] FR06/12, p7