



Complaints Policy & Procedures

Foxberry Ltd
27th April, 2018



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1 Definitions

1.1 Introduction

This chapter contains the definitions used in this document. Unless the context otherwise requires, the singular includes the plural and vice versa.

The definitions are split into three different sections:

- Section 1.2 contains definitions based on the Principles;
- Section 1.3 contains definitions based on the EU Benchmark Regulation; *and*
- Section 1.4 contains other definitions.

1.2 IOSCO based definitions

Administration: Includes all stages and processes involved in the production and dissemination of an Index, including:

- (a) Collecting, analysing and/or processing information or expressions of opinion for the purposes of the determination of an Index;
- (b) Determining an Index through the application of a formula or another method of calculating the information or expressions of opinions provided for that purpose; *and*
- (c) Dissemination to users, including any review, adjustment and modification to this process.

Administrator: An organisation or legal person that controls the creation and operation of the Index Administration process, whether or not it owns the intellectual property relating to the Index. In particular, it has responsibility for all stages of the Index Administration process, including:

- (a) The calculation of the Index;
- (b) Determining and applying the Methodology; *and*

(c) Disseminating the Index.

Calculation Agent: A legal entity with delegated responsibility for determining an Index through the application of a formula or other method of calculating the information or expressions of opinions provided for that purpose, in accordance with the Methodology set out by the Administrator.

Expert Judgment: Refers to the exercise of discretion by an Administrator or Submitter with respect to the use of data in determining an Index. Expert Judgment includes extrapolating values from prior or related transactions, adjusting values for factors that might influence the quality of data such as market events or impairment of a buyer or seller's credit quality, or weighting firm bids or offers greater than a particular concluded transaction.

Index: The Indices in scope of this document are prices, estimates, rates, Indices or values that are:

- (a) Made available to users, whether free of charge or for payment;
- (b) Calculated periodically, entirely or partially by the application of a formula or another method of calculation to, or an assessment of, the value of one or more underlying Interests;
- (c) Used for reference for purposes that include one or more of the following:
 - (i) determining the Interest payable, or other sums due, under loan agreements or under other financial contracts or instruments;
 - (ii) determining the price at which a financial instrument may be bought or sold or traded or redeemed, or the value of a financial instrument; *and/or*
 - (iii) measuring the performance of a financial instrument.

Interest: Refers to any physical commodity, currency or other tangible goods, intangibles (such as an equity security, bond, futures contract, swap or option, interest rates, another index, including indexes that track the performance of a rule-based trading strategy or the volatility of a financial instrument or another index), any financial instrument on an Interest, which is intended to be measured by an Index. Depending on the context, it is assumed that the word "Interest" also includes the market for such Interest.

Methodology: The written rules and procedures according to which information is collected and the Index is determined.

Publish or Make Available: Refers to the expectation that a party such as an Administrator should provide a document or notice to Stakeholders. The means by which such notice is made should be proportionate to the breadth and depth of Index use by Stakeholders, as determined by the Administrator on a “best efforts” basis. Ordinarily, posting a document or notice on the Administrator’s website will meet this expectation.

Regulatory Authority: A governmental or statutory body (not being a Self-Regulatory Organisation) with responsibility for securities and/or commodities and futures regulation.

Self-Regulatory Organisation: An organisation that has been given the power or responsibility to regulate itself, whose rules are subject to meaningful sanctions regarding any part of the securities market or industry. This authority may be derived from a statutory delegation of power to a non-governmental entity or through a contract between a Self-Regulatory Organisation and its members as is authorized or recognized by the governmental regulator. See the principle 9 of the Principles for Financial Benchmarks published by the International Organization of Securities Commissions (“**IOSCO**”) in July 2013 (the “**Principles**”).

Stakeholder: Refers to Subscribers and other persons or entities who own contracts or financial instruments that reference an Index.

Submitter: A legal person providing information to an Administrator or Calculation Agent required in connection with the determination of an Index.

Subscriber: A person or entity that purchases Index determination services from an Administrator.

1.3 EU Benchmark based definitions

BMR Index: means any figure:

- (a) that is published or made available to the public;
- (b) that is regularly determined:
 - (i) entirely or partially by the application of a formula or any other method of calculation, or by an assessment; *and*
 - (ii) on the basis of the value of one or more underlying assets or prices, including estimated prices, actual or estimated interest rates, quotes and committed quotes, or other values or surveys;

Benchmark: means any BMR Index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined, or a BMR Index that is used to measure the performance of an investment fund with the purpose of tracking the return of such BMR Index or of defining the asset allocation of a portfolio or of computing the performance fees;

BMR Input Data: means the data in respect of the value of one or more underlying assets, or prices, including estimated prices, quotes, committed quotes or other values, used by an administrator to determine a Benchmark;

Benchmark Provision: means

- (a) administering the arrangements for determining a Benchmark;
- (b) collecting, analysing or processing BMR Input Data for the purpose of determining a Benchmark; *and*
- (c) determining a Benchmark through the application of a formula or other method of calculation or by an assessment of BMR Input Data provided for that purpose;

Benchmark Administrator means a natural or legal person that has control of the Benchmark Provision;

1.4 Other definitions

Index Committee: an internal committee established at Foxberry for the purpose of providing governance and internal oversight in respect of all aspects of Foxberry's Index Administration and Foxberry's activities as a Benchmark Administrator.

2 Introduction

2.1 About us

Foxberry Ltd (“**Foxberry**”, “**we**”, “**us**”, “**our**”) is authorised and regulated by the Financial Conduct Authority (the “**FCA**”) (number 677250). Foxberry Ltd is incorporated in England and Wales (number 09278597), with its registered office address at Level 39, One Canada Square, Canary Wharf, London, E14 5AB, United Kingdom.

Foxberry offers a range of regulated financial services to institutional clients as well acting as an Administrator of financial Indices and as a Benchmark Administrator.

2.2 This document

This document describes our complaints policy and the procedures (the “**Complaints Policy**”) in place regarding formal complaints.

The purpose of the Complaints Policy is to:

- provide an electronic and user-friendly complaints process by providing a written summary of the complaints procedures by which Stakeholders may submit complaints.
- document and publish information regarding Foxberry’s internal procedures designed to achieve a reasonable and prompt handling of complaints and to summarise how Foxberry fulfils its obligation to handle and seek to resolve relevant complaints, and to ensure compliance with IOSCO and the relevant regulation including the Regulation (EU) 2016/1011 of the European Parliament and of the Council (the “**EU Benchmark Regulation**”).

The structure of this document can be summarised as:

- Section 3.1 describes the scope of these complaint procedures.
- Section 3.2 covers the submission of a complaint.
- Section 3.3.1 describes Foxberry’s procedures when receiving a complaint.

- Section 3.3.2 describes how Foxberry shall investigate the complaint.
- Section 3.4 describes Foxberry's record-keeping process of complaints.

This document covers the procedures for receiving, investigating and retaining records concerning complaints made.

3 Complaints

3.1 Scope

The complaints policy and procedures described in this document cover:

- failure by Foxberry to provide a financial service or a redress determination which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; *and*
- complaints including concerning whether a specific Index determination is representative of the underlying Interest it seeks to measure, applications of the Methodology in relation to a specific Index determination(s) and other Administrator decisions in relation to an Index determination.

In addition, in relation to Benchmarks it also covers:

- whether a specific Benchmark determination is representative of market value;
- on a proposed change to the Benchmark determination process, on an application of the methodology in relation to a specific Benchmark determination; *and*
- other decisions in relation to the Benchmark determination process;

3.2 Submission of the complaint

Before raising a complaint, please keep in mind that a query or dispute may be handled more efficiently by liaising with your normal Foxberry contact or by emailing info@foxberry.com.

For instance:

- queries about an Index or Benchmark determination, which are not formal complaints, will be resolved by Foxberry by reference to its standard appropriate procedures; *and*

- questions regarding ongoing or future business relationships and other queries which cannot be regarded as complaints within the meaning of this policy should still be addressed to your normal Foxberry contact or to the email list info@foxberry.com.

Although complaints can be made by any reasonable means, the following methods of communication would normally be used:

- by postal mail to: Att: Complaints, Foxberry Ltd, Level 39, One Canada Square, Canary Wharf, E14 5AB London, United Kingdom.
- by email to complaints@foxberry.com

If another method than the ones listed above is used, to ensure your communication is treated as a complaint in accordance with this document, please clearly mark it as "Complaint".

The complaint should include:

- the contact details of the complainant (including the full name, address, telephone number and email address);
- the company name of the complainant;
- the nature of the complaint;
- a detailed description of the concern;
- whether the complaint refers to Foxberry's role as an Administrator or Benchmark Administrator;
- the name of the relevant Index and/or Benchmark if applicable;
- the service provided, or the service that was failed to be provided, by Foxberry if applicable;
- the date of the incident if applicable; *and*
- the date of the complaint

If any of the information above is missing, Foxberry may not be able to fully assess the complaint. In such scenarios, Foxberry may contact the complainant to request further information.

If Foxberry does not deem a submitted query or dispute to rise to the level of a complaint, Foxberry may contact you to discuss the matter.

3.3 Receiving and investigating

3.3.1 Assessing the complaint

Upon receiving a complaint, Foxberry will investigate and assess fairly, consistently and promptly:

- the subject matter of the complaint;
- whether the complaint should be upheld;
- what remedial action or redress (or both) may be appropriate; *and*
- if appropriate, whether it has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint

When making these assessments, Foxberry will be taking into account all relevant factors, include the following:

- all the evidence available and the particular circumstances of the complaint;
- similarities with other complaints received by Foxberry; *and*
- relevant guidance published by the FCA, or that of any other relevant Regulatory Authority.

3.3.2 Obligations towards the complainant

Foxberry shall:

- investigate the complaint competently, diligently and impartially, obtaining additional information as necessary;
- ensure that the inquiry is conducted independently of any personnel who may be or may have been involved in the subject-matter of the complaint;
- send the complainant a prompt written acknowledgement providing early reassurance that it has received the complaint and is dealing with it;
- ensure the complainant is kept informed thereafter of the progress of the measures being taken for the complaint's resolution (unless such communication would be contrary to objectives of public policy or to Regulation EU No 596/2014); *and*
- provide a final or other response within eight weeks;

Following investigation of the complaint, Foxberry shall:

- offer redress or remedial action when it decides this is appropriate
- explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the complaint, its decision on it, and any offer of remedial action or redress; *and*
- comply promptly with any offer of remedial action or redress accepted by the complainant

3.3.3 Relating to Foxberry as an administrator

When a complaint is related to

- Foxberry's activities as an Administrator, including concerning whether a specific Index determination is representative of the underlying Interest it seeks to measure, applications of the Methodology in relation to a specific determination(s) and other Administrator decisions in relation to an Index determination, then in addition to section 3.3.1 and 3.3.2; *or*
- Foxberry's activities as a Benchmark Administrator

then the following shall apply:

- (a) all complaints will be reviewed by the Index Committee;
- (b) the Compliance Officer will, in consultation with the Index Committee, seek to resolve such complaint as soon as reasonably practicable; *and*
- (c) the complainant and other relevant parties will be advised of the outcome of its investigation within a reasonable period (unless such communication would be contrary to objectives of public policy or to Regulation EU No 596/2014);

If the complaint related to an Index or Benchmark determination, then Foxberry may need to provide the details of the complaint to third parties such as an Calculation Agent or Submitter.

If the complaint results in a change in an Index or Benchmark determination or the Methodology, the treatment of such change shall be dealt in accordance with Foxberry's governance process which may result in that this is Published or Made Available to Subscribers and Published or Made Available to Stakeholders as soon as reasonable practicable.

3.4 Record keeping

Foxberry shall keep a record of each complaint received and the measures taken for its resolution, and retain that record for five years from the date the complaint was received.

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