



# Index Amendment Policy & Procedures

Foxberry Ltd  
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# Contents

1	Definitions	3
1.1	Introduction	3
1.2	IOSCO based definitions	3
1.3	EU Benchmark based definitions	6
1.4	Other definitions	6
1.5	Interpretations	7
2	Introduction	8
2.1	About us	8
2.2	This document	8
2.3	Scope	8
2.4	Ownership	8
2.5	Amendments	9
2.6	Structure	9
3	Changes to the Methodology	10
3.1	Introduction	10
3.2	Material changes	10
3.3	Non-material changes	11
4	Consultations	12
4.1	Decision to consult	12
4.2	Content of consultation	12
4.3	Audience	13
4.4	Timeframe of the consultation	13
5	Responding	14
5.1	Submitting feedback	14
6	Concluding	15
6.1	Implementation	15
6.2	Notification	15
6.3	Record keeping	15

Document Catalogue

16

# 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;
- Section 1.4 contains other definitions; *and*
- Section 1.5 details certain interpretations of the definitions that are used throughout this document.

## 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.

**Audit Trail:** For the purposes of the Index-setting process, the documentation and retention of all relevant data, Submissions, other information, judgments (including the rationale for any exclusions of data), analyses and identities of Submitters used in the Index-setting process for an appropriate period.

**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.

**Index Linked Products:** investable financial products referencing Indices.

**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

**EU Benchmark Regulation** means Regulation (EU) 2016/1011 of the European Parliament and of the Council;

**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.

## 1.5 Interpretations

As Foxberry is subject to both the Principles and the EU Benchmark Regulation, there are multiple definitions which may sometimes overlap.

For the purposes of this Index Amendment Policy, it is therefore assumed that:

- Each Benchmark is also an Index. Hence all provisions relevant to Indices also apply to Benchmarks;
- Each Index is not necessarily a Benchmark, as for instance a Benchmark must be publicly available but an Index may not be; *and*
- Provisions which apply only to Benchmarks will refer to the term Benchmark.



## 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 consultations policy and the procedures (the “**Index Amendment Policy**”) in place regarding changes to the methodology of an Index.

The purpose of the Index Amendment Policy is to document and publish information regarding Foxberry’s policy and procedures in relation to amendments and consultations regarding Indices in accordance with principle 12 of the Principles and article 12(3), 13(1c) and 13(2) of the EU Benchmark Regulation.

### 2.3 Scope

This Index Amendment Policy applies to Indices that have been licensed and are used for Index Linked Products.

### 2.4 Ownership

The Index Amendment Policy is owned by the Index Committee.

## 2.5 Amendments

Any amendments to this document needs to be approved by the Index Committee.

## 2.6 Structure

The structure of this document can be summarised as:

- Chapter 1 contains definitions used in this document;
- Chapter 2 contains introductory sections;
- Chapter 3 discusses changes to the methodology and under what circumstances such changes may trigger a consultation;
- Chapter 4 contains details around the consultation process;
- Chapter 5 contains details around the process of responding to a consultation; *and*
- Chapter 6 contains details regarding concluding a consultation.

## 3 Changes to the Methodology

### 3.1 Introduction

Although the Methodology is intended to be comprehensive and accurate, ambiguities may arise and errors or omissions may have been made. In such circumstances, Foxberry shall follow procedures, which are proportionate to the amount and type of Index Linked Products referencing the relevant Index which are currently in existence. The Index Committee shall provide oversight and scrutinise all changes made to Indices.

### 3.2 Material changes

The Index Committee will determine whether a proposed change of the Methodology is considered material. Material changes involve changes to a Methodology that does materially alter the logical construction of an Index.

Where a proposed change of the Methodology is considered material, the matter must be brought before the Index Committee for consideration to ensure the continued integrity of the Index determinations. When determining if a proposed change is material, Foxberry shall consider:

- (a) any economic and/or financial impact of the proposed change to investors in Index Linked Products;
- (b) whether the change is related to Submissions, as defined in the Principles and interpreted as described in the Foxberry's IOSCO Control Framework, section 3.14;
- (c) if the original intent and/or function of the Index is retained;
- (d) whether the Index currently has outstanding Index Linked Products;  
*and*
- (e) the extent of which the change is consistent with the design objective of the Index.

Section 3.3 gives examples of changes which shall not be considered material.

### 3.3 Non-material changes

The following amendments to the Methodology are examples of non-material changes:

- (a) correction of typos;
- (b) clarifications;
- (c) adding or removing language not impacting how the Methodology is normally applied, including disclaimers, regulatory statements, governance procedures and examples;
- (d) amending the structure of the Methodology document;
- (e) amending the coverage of the Methodology to include or remove other Indices of similar characteristics;
- (f) a temporary change in the manner in which a particular Methodology is applied and/or the exercise of Expert Judgment in the event on a market disruption or under other circumstances where an urgent determination is required (provided that such Expert Judgment shall be overseen by the Index Committee and if practicable such determination will be conducted by the Index Committee);
- (g) amendment of the embedded transaction costs or tax rates of an Index, provided that such amendment is always subject to Index Committee approval and notification to Stakeholders either on a per-client basis or notification on Foxberry's and/or the Calculation Agent's website;
- (h) amending minor details such as rounding accuracy (provided that such change shall be approved by the Index Committee);
- (i) switching a specified data source or data vendor, provided that the relevant data has the same meaning and fulfils other data requirements set out by Foxberry; *and*
- (j) changing meta data including name and identifiers of an Index.

## 4 Consultations

### 4.1 Decision to consult

Where changes to the Methodology are deemed material, the Index Committee may decide to conduct a consultation. Such consultation shall be appropriate and proportionate to the breadth and depth of the Index's use and the nature of the Stakeholders.

Any such decision to survey Stakeholders shall be taken by the Index Committee. The Index Committee shall ensure that such consultation is consistent with the overriding objective to ensure the continued integrity of the Index.

### 4.2 Content of consultation

Each consultation should:

- (a) disclose the rationale of such proposed change;
- (b) exactly what the changes entail;
- (c) when the changes are intended to apply;
- (d) provide advance notice and a clear timeframe that gives Stakeholders sufficient opportunity to analyse and comment on the impact of such proposed material changes, having regard to the Administrator's assessment of the overall circumstances;
- (e) provide for Stakeholders' summary comments, and the Administrator's summary response to those comments, to be made accessible to all Stakeholders after any given consultation period, except where the commenter has requested confidentiality;
- (f) the means of submitting feedback in accordance with section 5.1; *and*
- (g) a clear timeframe for when Foxberry is requesting the feedback from Stakeholders in accordance with section 4.4.

## 4.3 Audience

A consultation can be either be posted publicly on Foxberry's website or communicated directly to Stakeholders, users and licensees, as determined by the Index Committee. When deciding the audience of the consultation, the Index Committee shall consider:

- the use of the Index;
- the nature of the proposed change of Methodology;
- the breadth and depth of the Index's use and the nature of the Stakeholders; *and*
- whether the Index is a Benchmark.

## 4.4 Timeframe of the consultation

The Index Committee shall determine the timeframe used for the consultation. The Index Committee shall take into account the following factors when determining the timeframe for the consultation:

- the use of the Index;
- the complexity of proposed change of Methodology;
- the nature of the proposed change of Methodology;
- the potential impact of such proposed change of Methodology;
- the breadth and depth of the Index's use and the nature of the Stakeholders;
- whether the Index is a Benchmark;
- the urgency of the addressing the potential change of Methodology; *and*
- whether the lack of a change in Methodology is likely to result in an Expert Judgment.

The timeframe shall be such that is gives the opportunity to analyse and comment upon the impact of such proposed material changes. When appropriate, the Index Committee may conduct a consultation on a short notice basis.

If feedback is received from the relevant Stakeholders prior to the stated timeframe, the Index Committee may decide to conclude the consultation early.

## 5 Responding

### 5.1 Submitting feedback

Stakeholders shall be requested to provide feedback on the proposal. Feedback may include:

- whether the Stakeholder agrees with the proposal;
- whether the Stakeholder would continue to consider the Index investable; *and*
- whether the Stakeholder sees any issues with the proposed changes.

Feedback shall be submitted to Foxberry to the Stakeholders's ordinary Foxberry representative, or via email to [operations@foxberry.com](mailto:operations@foxberry.com), or via post to Foxberry Ltd, Att: Index Committee, Level 39, One Canada Square, Canary Wharf, E14 5AB, London, United Kingdom.

Stakeholders providing feedback may specify that the Stakeholder requests confidentiality with regard to the summary comments provided by the Stakeholder and Foxberry's summary response to those comments.

## 6 Concluding

### 6.1 Implementation

The Foxberry Index Committee will review the feedback received from this consultation and decide on any changes in the Methodology, including:

- dismissing the proposed change of Methodology;
- conducting further consultations; *and*
- implement the proposed change of Methodology, potentially amended to take into account the feedback received during the consultation.

### 6.2 Notification

Following such consultation, Foxberry shall notify Stakeholders of any change of Methodology, either on an per-client basis where applicable or through a notice on its website.

If Foxberry has received comments regarding the impact of such material changes, Foxberry shall make such comments and Foxberry's response to such comments accessible after the consultation, except where confidentiality has been requested by the originator of the comments. Foxberry will not disclose the name of the Stakeholders behind such comments.

### 6.3 Record keeping

Foxberry shall keep a record and Audit Trail of the details of the consultation and the feedback received and the measures taken following such consultation, and retain these records for at least five years from the date the consultation was concluded.



# Document Catalogue

Administration, 3  
Administrator, 3  
Audit Trail, 4

Benchmark, 6  
Benchmark Administrator, 6  
Benchmark Provision, 6  
BMR Index, 6  
BMR Input Data, 6

Calculation Agent, 4

Definitions, 3

EU Benchmark Regulation, 6  
Expert Judgment, 4

FCA, 8  
Foxyberry, 8

Index, 4  
Index Amendment Policy, 8  
Index Committee, 6  
Index Linked Products, 4  
Interest, 5  
IOSCO, 5

Methodology, 5

Principles, 5  
Publish or Make Available, 5

Regulatory Authority, 5

Self-Regulatory Organisation, 5  
Stakeholder, 5  
Submissions, 10  
Submitter, 5  
Subscriber, 5