

FUNCTIONING AND OVERSIGHT OF OIL PRICE-REPORTING AGENCIES

CONSULTATION

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Response by ICIS, Reed Elsevier plc

Preamble

This submission in response to IOSCO's call for feedback has been prepared by ICIS, a Reed Elsevier business and a publisher of price benchmarks for the global crude oil market.

ICIS welcomes the opportunity to respond to IOSCO's consultation document on the functioning and oversight of crude oil price-reporting services; and is more than happy to have its response published – provided that the full text of this response is made public by IOSCO.

ICIS has responded as fully as possible to the questions asked by IOSCO. In so doing, we have made the assumption that the scope of IOSCO's current interest in physical oil markets is limited to the crude oil market, and have not discussed other commodities markets.

We would like to make the following observations:

1. The absence to date of a formal regulatory framework for the physical crude oil market as a whole does not imply that there is a need for such a framework. On the contrary, it implies that this market has successfully evolved to a state of considerable maturity and operates efficiently on a global basis *without* any regulatory intervention. Nothing in the current state of the marketplace suggests that physical oil markets are at risk of exploitation by speculators, or that any one vested interest or group of interests exerts undue influence over price formation.
2. Likewise the use by the oil industry of price benchmarks created through an unregulated process does not imply that there is a need to regulate the methodologies of the organisations which earn their living by publishing these benchmarks. Price-reporting services are the evolved product of unique historical conditions – and the arguably unique nature of the oil market – and as such represent a highly effective solution to the problem of transparency in oil markets.

Any attempt to regulate this solution may have unforeseen and undesirable consequences for market efficiency. In particular, the suggestion implicit in the IOSCO consultation document that a third-party “arbitration” authority be set up to intervene in disputes about published prices is in ICIS' view a recipe for market chaos. Such a third-party mechanism would be akin to creating a regulator for credit ratings agencies with the power to overturn ratings deemed unfavourable by rating recipients, and would leave price-reporting services with little choice but to abandon publication at short notice of key benchmark prices. In effect, the regulator would be *taking on the role of price-determination*; an activity which history has shown sits uneasily with national governments, which ultimately are the overseers of regulators.

There is a further risk that any attempt to regulate *methodology* of price determination would result in a less robust playing field among price-reporting services. Oil prices are a moving target and, as IOSCO is aware, there is no single “correct” method for determining a price. A plurality of well-constructed

methodologies, within the scope of good overall governance, seems to ICIS to offer greater protection against anomalies to market participants than a centrally-determined set of measurement principles.

Meanwhile, benchmark prices in commodities markets exhibit strong “network effect” characteristics. That is to say, they confer strong “first mover” advantage on the price-reporting service that is first to identify a market need. Once a particular price is established as a commonly-agreed standard among industry players, it is relatively hard for a competing price to displace the existing benchmark, *even when* the competing price is arrived at by an arguably superior methodology to said benchmark. This is because consensus among oil market participants is extremely difficult to achieve, given that at any one moment 50% of the market has commercial interests diametrically opposed to the other 50%.

By implication, the greatest risk to the good functioning of oil markets in the context of price-benchmarking is inertia.

Therefore, we **strongly recommend** that price-reporting services move to a system of public and auditable self-regulation; and ask that IOSCO and others contribute to the creation of this system by acting as advisors on and external critics of the draft code of practice already prepared jointly by ICIS, Argus and Platts. A draft version of the proposed code is attached in an appendix to this document.

The adoption of a public code of self-governance would be a healthy and beneficial step forward in terms of providing market participants with the necessary insight into the internal and external processes of price-reporting services – an insight much-needed in terms of enhancing the speed and confidence of decisions to adopt new, or different benchmarks.

Our expectation that multiple price-reporting services would wish to become signatories to the Code would in effect broaden the pool of available options to the industry and would have the effect of enhancing healthy competition among price-reporting services.

Impact of Oil PRA Benchmark Prices on physical and financial markets

Q1. *Are you or your company currently subscribers to the services of PRA(s)? If so, how would you rate the overall quality of the work being carried out by the PRA(s)?*

No. ICIS is an independent price-reporting organisation.

Q2 *Please provide information on the impact of PRAs on physical oil and oil derivatives markets. Please support your comments with data on the volume and value of the related physical oil and oil derivatives business you are aware of, which is dependent on PRA benchmark prices (where possible broken down in the following categories @ ITC; OTC cleared; or exchange-traded)*

Independent price-reporting organisations, principally Platts, Argus, ICIS, Dow Jones,

Thomson-Reuters and Bloomberg – but also including smaller specialist information providers in Latin America, China, Russia, India and Eastern Europe, and on occasion the general media – have to date proved the sole effective source of market transparency in physical crude oil markets.

The multi-dimensional complexity of these markets, where quality, location, transportation, timing and terms & conditions of trade all have an impact on tradable price, means that oil markets are not *inherently* transparent – by sharp contrast, for example, with many agricultural commodity markets, or with markets for electricity.

In addition, a very large percentage of the crude oil sold daily around the world is sold on a long-term contract basis, leaving sometimes relatively small volumes of oil available to trade in the spot market: the sole effective source of price discovery.

As a result, efforts by the oil industry, brokerage services or electronic exchanges to mechanise price discovery in the oil market have historically failed. Pricing “panels” have fallen victim to the commercial interests of panel members. Indices generated from electronic trading systems, meanwhile, have proved unreliable because of *volume volatility*: it is not possible to generate a meaningful weighted average price from a handful of (or zero) transactions. Nor do there exist any supply-demand algorithms capable of determining “fair value” for oil; and Saudi Arabia’s experiments with netback pricing of crude oil proved famously disastrous in the 1980s.

Price-reporting organisations, on the other hand, have successfully deployed increasing levels of sophistication in interrogating the marketplace about price since the 1970s. Testament to their success is the fact that, since the mid-1980s, term contracts for crude oil globally have typically had their pricing linked to benchmarks published by price-reporting services – where previously contract price levels were set arbitrarily by oil-producing companies and countries.

Transparency in physical oil markets is a function of multiple approaches to information: it is not simply the product of number-gathering. Price-reporting services have created transparency by researching, analysing, and publishing information on:

- Verified transactions
- Bid/offer levels
- Market sentiment
- Movements in and relationships to other, related markets
- Freight and processing relationships
- Derivatives markets

In addition, and by contrast with electronic exchanges, price-reporting services have increasingly moved to publishing the *names* of companies which are party to transactions in physical oil markets, creating an additional layer of transparency.

Price-reporting organisations are also in a position to adjust their information-gathering processes and price-setting methodologies as markets evolve, keeping pace with accelerating speed, volume and financial sophistication of transactions.

It should be noted that, since the price of oil is a moving target, conditioned by multiple physical and temporal dimensions, it is not possible to “fix” a methodology that corresponds to some imagined “best” way of determining prices. As a result, different price reporting services have evolved different methodologies over time. ICIS views this phenomenon as beneficial to the marketplace, in that it confers choice on market participants. It is meanwhile, however, noteworthy that informal

comparison of the prices published by different reporting services for key crude oil benchmarks shows these are remarkably convergent: suggesting there is strong transparency in the most actively traded markets.

Price-reporting organisations have also actively contributed to solving liquidity problems in some markets, by changing their market reporting methodologies in consultation with the industry, for example to embrace a wider pool of source transactions or grades of material.

Thus, it is fair to say that without the price-reporting organisations, much of the evolution in oil markets of the past 30 years would never have occurred; and that markets would still be fundamentally inefficient: the situation which contributed extensively to the oil price shocks of the 1970s.

Significance of Methodologies Used by PRAs

Q3 *What are the impacts of PRA processes on oil trading markets, physical and/or derivatives? In your answer please comment on the quality of PRA processes, their strengths, as well as the potential impacts of any perceived weaknesses.*

The leverage inherent in most oil markets between a relatively small volume of physical spot transactions and a much larger volume of term contract business has had two primary effects:

- It has driven the evolution of a robust and sophisticated hedging complex.
- It has focused traders' mental energies on the methodologies used to create prices published by price-reporting organisations, creating an "arms race" between methodology, on the one hand, and traders' efforts to achieve publication of a desired price by trading *in a particular way*.

In other words, by the nature of the market, price-reporting organisations cannot function as *pure observers*. Choices about methodology have an unavoidable direct effect on market behaviour, in much the same way as other indirect market variables, such as taxation. Conversely, changes in trading practises necessarily impact methodology.

Thus for example, in markets where price-reporting services have taken an "all-day" approach to market measurement, including in their assessments all transactions between a market open and market close, traders have experimented with "timed trading": concluding all their transactions early in the day, for instance, in the hope that the levels set will then "stand"; or they have tried to exploit market spread opportunities created by the phenomenon that active trading in different markets may occur at different times of day. By contrast, where price-reporting services have chosen to measure market value at a single point in time, trading behaviour has naturally focused on concluding transactions as close as possible to that point in time, in the hope of 'setting the price' for the day.

In effect, market-reporting methodologies are subject to *evolutionary pressure* from market behaviour. Changes in market behaviour result in changes in methodology, which in turn may themselves affect market behaviour.

Interestingly, where price-reporting organisations have attempted dogmatically or

inappropriately to apply a methodology evolved in one market to another, different market, markets have sometimes reacted with the ultimate evolutionary sanction – to use a price benchmark published by another agency.

The evolutionary nature of price-reporting methodologies is their greatest strength, and it should be noted that any efforts to regulate this evolution may have “unintended consequences”: a static methodology is vulnerable to increased market sophistication.

Governments and consumer pressure groups have frequently voiced concerns that the prices published as a result of price-reporting services’ methodologies may somehow not reflect “the true price” in the marketplace. We note IOSCO’s concern in particular that selective reporting of transactions to price-reporting organisations might cause distortions in published prices.

In ICIS’ view these concerns are at heart groundless, for the following reasons:

1. The existence of a large and sophisticated hedging complex in key markets, including some very publicly transparent futures markets, severely constrains market participants’ ability to create an illusory price by selective reporting, or indeed deliberate falsification. Indeed, ICIS’ methodology for the key Dated Brent crude price takes as its starting point the hedging structures in place, treating the physical price as an emergent property of the constraints of the futures and CFD complex.
2. In markets where insufficient transparency exists, market participants typically *do not use* the prices published by price-reporting services as benchmarks, preferring to link term contracts and hedging mechanisms to more transparent trading complexes.
3. All physical transactions, by their nature, are concluded by parties with opposing interests in price movement. Thus for every trader motivated to conceal the existence of a transaction, there is a counterparty motivated to publicise it.
4. At a fundamental philosophical level, the “true price” is a moving target, whose reality is subject to interpretation. A weighted average price, as widely used for instance in US natural gas markets, is *either* a representative value for a set period of trading, *or* a meaningless mathematical construct – a value at which no actual transaction is possible, except by chance. Similarly, depending on point of view, a closing price is *either* the best approximation to tradable value at the most active period of the day, *or* a meaningless snapshot in time. No regulatory intervention or change in methodology can circumvent dichotomies of this kind, which are emergent from the nature of oil markets themselves.

Q4 Do you consider PRAs to have potential systemic impact on the financial system? Please give reasons for your answers.

The primary effect of the transparency created by price-reporting organisations has been to make possible a systemic increase in volume of transactions across the board in oil markets.

There is a strong case for arguing, therefore, that the presence of price-reporting organisations has had as its primary effects an increase in *market efficiency* and a decrease in anomalous volatility. It is historically significant that the days of

spectacular bankruptcy among oil trading houses appeared to end with the rise in reliance on price-reporting services for benchmarking purposes in the 1980s.

- Q5 *What are your views regarding PRA price methodologies, including your ability to identify methodological errors? Do you consider that mechanisms or procedures exist to address any such concerns and are they adequate? Have PRAs demonstrated responsiveness in updating their methodologies to reflect market development?*

ICIS can only comment on its own methodologies in this regard.

ICIS has a hierarchy of strict policies in place that govern the organisation's approach to minimising error and correcting it where it arises.

This hierarchy comprises a Reed Elsevier Code of Business Ethics, which governs the general ethical behaviour of ICIS market-reporting staff; a more specific ICIS Editorial Code of Conduct which outlines standards for reporting behaviour; a set of procedures for identifying and rectifying human or mechanical error, where it arises; and published methodologies for each of over 150 individual markets covered by ICIS in the oil, natural gas, petrochemical and fertilizers markets. Codes of conduct require annual signatures and statements of compliance by market-reporting staff.

Additionally, ICIS has procedures for escalating market complaints to an appropriate level; a dedicated Head of Market Reporting function, which reports to the group's editorial heads; and a Head of Compliance with reporting lines outside the editorial group. The compliance function is responsible for verifying that methodologies are accurately followed, and are developed in consultation with the markets served.

ICIS publishes price corrections *only* where a human or mechanical error has occurred. It does not make revisions to prices in the light of "new" information received after its daily or weekly publication deadlines have passed.

Impact of voluntary reporting to PRAs

- Q6 *Does the voluntary reporting of transactions used in certain PRA assessments pose risks to the price assessment process? If so, how should these risks be mitigated? Would it be beneficial if reporting of transactions to the PRAs were mandated (contractually or by legislation)?*

In ICIS' view, voluntary reporting of prices is an inherent by-product of the fact that the oil market is not a closed system. Companies participating in the market are at liberty a) to trade in any country, marketplace or transaction system they see fit; and b) to establish individual policies on information disclosure.

The effect of a) is that participation in differing market mechanisms itself is voluntary: a company may choose to trade *some of its hedging requirements* on an electronic platform, and *others* via a voice broker – a phenomenon that has consistently and significantly undermined the credibility of electronic trading platforms' claims to be generating representative market prices.

It is the responsibility of price-reporting services to survey the widest possible universe of market participants, and gaps in reporting, should they emerge, would be quickly identified and targeted by the marketplace itself. Thus in the unlikely event that a substantial number of open market transactions were occurring “under the radar”, the prices published by the market-reporting service would quickly lose credibility. In effect, a self-correcting mechanism is already in place.

Moreover, the nature of the relationship between oil markets and price-reporting services is such that trading houses are *strongly motivated* to report their transactions to price-reporting services, since only by reporting them can they participate in the price-setting mechanism.

The effect of b) has been, on the other hand, that some market participants, notably ExxonMobil, have placed a *blanket ban* on their employees discussing trading activity with independent price-reporting organisations. It is doubtful whether any legislation to reverse this entirely consistent approach – designed by ExxonMobil to avoid charges of market-leading or collusive behaviour – would be successful under US or European law.

In addition it should be noted that market participants in oil include sovereign governments or state-owned oil companies in the Middle East, former Soviet Union, Norway, China and elsewhere. No legislative action in the United States or EU has any jurisdiction over the behaviour of these entities. Indeed, even the pool of crude oils traded in the world’s most influential physical oil market – North Sea BFOE – is comprised of physical crude oils produced both inside and outside the EU.

ICIS notes too an *existing trend* in recent years for western oil trading houses to relocate their headquarters to tax havens or neutral countries such as Switzerland, where again US and European legislation has no force.

Any well-meant attempt to legislate compulsory reporting would thus run the risk of creating a two-tier marketplace – one overt and one covert – achieving in practice the opposite effect to the intended goal of greater systemic transparency.

Meanwhile, it should be noted that price-reporting services *cannot contractually mandate* full disclosure of market activity, since oil markets contain multiple participants who are not customers of price-reporting services. It would be a clear retrograde step for price-reporting organisations to accept market data *only* from companies or governments who choose to subscribe to their services.

Q7. *Do low numbers of transactions used in certain PRA assessments pose risks to the price assessment process? If so, what crude grades and markets do you see affected by this? What is considered to be a "low" number? How should any such risks be mitigated?*

The accuracy, and perhaps even more importantly, the consistent predictability of a price assessment is clearly in part a function of transaction volume.

However, markets exist in which assessments are a function of the volume and transparency not of transactions but of *bids* and *offers*. Yet other markets, notably that for Dated North Sea crude (“Dated Brent” or “Dated BFOE” depending on terms of reference) feature prices which are *emergent properties* of the surrounding complex. Virtually no cargoes of Dated Brent are ever traded today; yet the prices

published for the Dated Brent instrument by the various price-reporting services are remarkably consistent, homogeneous, and among the least-disputed prices in the industry.

In ICIS' view this is because Dated Brent is in effect a virtual price marker, determined by a) the price of forward Brent futures on the Intercontinental Exchange, b) week-on-week swap transaction levels and c) the value of the Exchange for Physical instrument. This reality is explicitly reflected in ICIS' methodology for determining the Dated Brent price, which is thus not dependent on the presence or absence of Dated Brent trades, but on mathematical relationships.

Dated Brent is not alone in this regard. Numerous prices published by reporting agencies are mathematical constructs, explicitly because – for instance – the application of a freight netback to a robust market elsewhere yields a more reliable price in a low volume market than any attempt to construct an assessment on the basis of insufficient transaction data.

It is thus not in general possible to determine a threshold number of transactions above which a price assessment might be deemed “reliable”.

It should be noted, meanwhile, that not all published prices are used as benchmarks for contract or derivatives settlement by the oil industry. Indeed, of the thousands of oil market prices generated by market-reporting organisations daily, only a handful are used as benchmarks. The rest are used by the oil industry for indicative, informational, or analytical purposes.

Those prices which *are* used as benchmarks are in effect self-selecting, precisely on the basis of the transparency and liquidity of the surrounding marketplace. Where a benchmark comes under pressure from low volume and/or market imbalance, the market has shown itself more than capable of switching to a different pricing mechanism – as has recently occurred, for example, in the North American crude oil market, where large exporters to that market have switched benchmarking away from WTI.

One further mechanism is relevant: mindful of their reputations, which are the sole basis for their businesses, price-reporting organisations are inherently reluctant to pursue publication of a price which has low market credibility. Thus in the first instance, ICIS will not agree to publish a price where it feels it is unable to establish a reliable methodology (even in the face of industry requests for such a price). And in the second instance, ICIS would prefer to discontinue publication of a price rather than face reputational risk in the event that a market “dies” or becomes subject to structural imbalance.

Other price-reporting organisations are understood to have similar views.

Q8 Taking Account of existing PRA procedures to obtain information on which to base their assessment when no transactions have been submitted, are there any other approaches that may produce their benchmark prices in the absence of liquidity?

No.

Accountability of PRAs

Q9 *Are there any issues regarding PRAs that concern you from public accountability perspective?*

As a price-reporting organisation itself, ICIS is not in a position to comment directly on this question.

However, ICIS is keenly concerned with good governance, and is continuously researching and instigating new procedures and mechanisms to ensure the highest standards of accountability.

These include:

- Creation of roles such as Head of Market Reporting and Head of Compliance
- Continuous revision of methodologies
- Databasing and standardisation of methodologies across multiple markets
- Continuous revision of editorial codes of conduct
- Continuous training of staff
- Continuous review of staffing levels to ensure appropriate resources are dedicated to each market.

Q10 *Do you consider the function performed by PRAs to require a form of public oversight of PRAs? If so, which PRA activities should be subject to a form of public oversight and why?*

As an accountable price-reporting organisation, ICIS has nothing to hide, and is concerned to build the maximum trust between itself and the markets it serves.

If public oversight is helpful to the furtherance of this trust, therefore, ICIS welcomes any initiative that enhances perceptions of accountability and transparency.

In the competitive landscape of price-reporting, it is clearly desirable that no one price-reporting organisation should tarnish the reputation of others. In ICIS' view, therefore, it would clearly be helpful if the public claims of price-reporting agencies as to their size, accuracy, customer acceptance, customer count etc were subject to thirdparty scrutiny.

ICIS would also welcome an independent mechanism that evaluated market-by-market acceptance of the prices published by price-reporting organisations, and bench-marked price-reporting organisations' compliance with a voluntary code of practice.

ICIS does not believe that regulatory oversight of the evolution and determination of actual market-reporting methodologies would necessarily be helpful. For the following reasons:

- Freedom of the press laws across much of the world permit any organisation to report on and publish data from any market. Regulation of this activity is likely to have the unintended effect of reducing competition in the market-reporting space.
- Regulators should be aware that lobbying for or against specific methodologies on the part of industry participants is not necessarily motivated by the "good

of the market". Indeed, in most cases, it is motivated by commercial interests. There is a real risk that national financial regulators may be swayed inappropriately by pressure from large industry players headquartered in their territories.

- In the event that regulatory oversight were imposed on an ICIS methodology, and ICIS found itself in disagreement with a specific methodology ruling, the company would have no choice ethically but to discontinue publication of the price series in question.

Governance of Oil PRAs

Q11 Please detail any concerns you may have about current ownership of PRAs in particular with regard to possible conflicts of interest.

ICIS is concerned that a number of price-reporting organisations exist in the space which are owned or operated by brokerage services. Despite claims of impartiality, ICIS considers that brokerages are not independent observers of commodities markets, since they are ultimately dependent for their revenues on serving the interests of their largest clients.

Board Structure

Q12 Do you have any concerns regarding the current corporate governance standards of PRAs? If so, what are the improvements that you believe are needed?

Aside from the issues raised in Q11, ICIS is concerned that competitive pressure among price-reporting agencies may lead some participants in the space to make extravagant claims for the accuracy of their processes, and/or resort to derogatory tactics vis-à-vis their competitors.

ICIS is also concerned that, for similar reasons, some PRAs may seek to establish "exclusive" information relationships with their customers, attempting for instance to stipulate contractually that information shared with them should not be passed on to other price-reporting organisations. Evidence for such behaviour is only anecdotal at this point.

However, these concerns point to a potential need for raised standards of governance relating to general competitive business practise on the part of price-reporting organisations. These standard do not relate to corporate governance vis-à-vis the marketplace, where ICIS is not aware of any issues relating to itself or its competitors.

As a result, ICIS strongly supports the introduction of a version of the voluntary code of self-regulation already drafted jointly by price-reporting organisations ICIS, Platts and Argus as a means to regulate standards of behaviour and competitive practices. A draft version of the proposed code is attached as an appendix to this document.

Q13 *Do PRAs need to be subject to standards of corporate governance that are equivalent to the standards to which regulated financial entities are subject? Please elaborate.*

Price-reporting organisations are fundamentally journalistic in nature, and their acceptance in and use by the marketplace is pragmatically determined. If they deploy methodologies which result in the publication of inaccurate information, the information is of no value to market participants and is not used.

The term “assessment” is used by price-reporters for good reason: namely that markets exist in which value is a matter of interpretation. All prices are therefore published with the caveat that their primary function is *informational* and results to be obtained from their use in financial transactions may vary.

In ICIS’ view, this is a very different situation to that of financial entities which are *active participants* in a marketplace.

Different standards of governance therefore necessarily apply.

Systems and controls over methodologies and internal policies

Q.14 *Do you have any concerns as to the robustness of the systems and controls in place at PRAs as they relate to the integrity of the processes used to construct price series or indices? Please explain.*

No.

Q15 *Which authority, if any, should establish a set of principles for the appropriate level of systems and controls within a PRA and in particular as they relate to PRA benchmark methodologies? Would this sufficiently address any concerns you may have and, if so, how?*

Since the oil market is a global one, and price-reporting services may be established in any country, it is not clear which market authorities might have sufficient jurisdiction to establish regulatory rules for price-reporting.

ICIS subscribes to the view that a voluntary code of practice, similar to that already in existence in draft form, be established by common consent among existing price-reporting services, developed and written in collaboration with IOSCO. Further, that this code contain provision for the independent monitoring of price-reporting organisations’ compliance with the code itself.

Q16 *Should PRAs as a general matter be subject to a specified external audit of individual operations or processes, the results of which could be published demonstrating standards of compliance with relevant rules? Would PRAs need to be held to account for such an audit and, if so, which organisations would be best placed to carry out such an audit? What are the benefits and risks?*

Audit by an independent internal function, or by an external party, would be of benefit in demonstrating compliance levels at by price-reporting organisations.

ICIS believes that free-market forces would be sufficient to “hold to account” any price-reporting service which received a negative review as a result of such an audit. Market participants are likely simply to stop using prices found to have been generated by inadequate processes.

The principal risk of external audits, for example by international accounting firms, is that different accounting bodies might apply different standards to different price-reporting services, creating a “chalk and cheese” comparison of little value to the marketplace in evaluating which prices to use as a benchmark.

A further risk is inherent in the fact that virtually all the global expertise in developing market-reporting methodologies lies within the price-reporting services themselves. The possibility exists, therefore, that an audit would examine the wrong factors, or incorrectly evaluate the operations of a price-reporting service. It is not a given that expertise in financial or stock markets confers the necessary expertise to evaluate the complexity of price determination in complex physical markets.

Some measure of standardisation of audit is therefore highly desirable, and needs to be designed in cooperation with price-reporting services.

Complaints Handling

Q17 Should PRAs be required to incorporate into their rules, if absent, a formal complaints procedure. If so, please explain what would be your preference in terms of procedure or process?

Yes. Complaints procedures should be documented, and follow an escalation path for resolution. Price-reporting services should as a minimum log and document the handling of all complaints.

In the event that external auditing is put in place, these logs should be shared with the external auditor.

IOSCO should bear in mind, however, that many complaints against price-reporting services are motivated by commercial gain, or – in many cases – originate from traders who have lost money on a trading position.

Open publication of a complaints log is therefore unlikely to be a useful tool in determining the accuracy or otherwise of a price-reporting service’s assessments. It is in the nature of the market that more complaints are received about key benchmarks than about sideline prices.

Q18 Should disputes be resolved by an appropriate third party as a matter of course? Please explain the benefits and risks.

No.

External dispute resolution strikes at the heart of the good-faith integrity of the price-reporting service, and creates the potential for long-running and market-damaging

disputes.

The “contract” implicit in a market participant’s use of a published price is that the participant agrees to accept the independent evaluation of the market by the price-reporting service. If that evaluation is subject to revision by a third party, the price-reporting service’s independence and authority is fundamentally and potentially permanently damaged. In effect, the arbitrator would be taking over the role of price-determination.

As above, ICIS would prefer to cease publication of a price series rather than change a price which in its opinion had been accurately determined.

- Q19 *Should such a formal complaints procedure necessitate greater transparency in the handling and resolution of complaints by PRAs, for example by requiring transparency of the complaints process and publication of decisions and the rationale for them?*

As above, the difficulty here is that many “complaints” are commercially motivated: that is the complaint is lodged in the hope of pressuring the price-reporting service into changing the assessed price to a more advantageous one for an individual trader or company, or into adopting a methodology more favourable to a trader’s trading strategy or position.

A requirement to publish details of all complaints may inadvertently create a lobbying tool for market participants on one side of the market.

Traders would not be slow to exploit such a tool, for instance by complaining on a daily basis in a bid to undermine the credibility of an assessment process which, while entirely fair, was not in accordance with a particular trading strategy.

Conflicts of Interest

- Q20 *Please describe concerns you may have relating to potential conflicts of interests affecting PRAs arising from revenue generation, media reporting, internal staff management or any other source. Has this had any impact on the price-reporting function of PRAs and if so how?*

ICIS has no concerns in this regard.

As detailed above, the company has in place a set of highly detailed Codes of Conduct governing conflicts of interest.

Editorial decisions are taken independently and without regard to the commercial interests of the company, and reporting lines are separated from the sales, marketing and consulting functions.

ICIS derives no revenue that is linked to the value of the commodities it assesses.

Competition aspects attached to the PRA sector

Q21 *Are there any undue obstacles that prevent market participants from adopting different sources for price references? Please explain.*

The primary obstacle to adoption of other sources for price reference is the difficulty market participants experience in jointly and simultaneously agreeing to adopt a new reference.

This obstacle is compounded by historical accident. In the original absence of market transparency, market participants tended in the past to adopt prices as benchmarks on the basis solely of “first mover” presence. Once adopted, these benchmarks have remained in force, sometimes for decades, without serious review of their fitness for purpose. Where markets have switched benchmarks, it has often been on the basis of a single large participant’s one-sided decision-making process: the pre-eminent example being Saudi Arabia’s occasional choices of crude pricing benchmark, which have the effect of “leading” the entire Middle Eastern pricing complex, and in turn the associated derivatives complex.

The existence of two dominant price-reporting players in the space – Platts and Argus – has further tended to limit choice, and has on occasion led to situations in which the market has switched benchmarks from one provider to another for reasons other than the “good of the market”.

The creation of a more transparent playing field, with common standards among multiple price providers, based on a common code of self-governance, can only improve this situation, in ICIS’ view.

It should be noted, however, that no pricing service, to ICIS’ knowledge, has ever engaged in anti-competitive behaviour. Market participants are in theory free to use whatever benchmark they choose, and historical precedents exist where large trading houses have experimented with multiple sources for contract linkage – including prices published at no charge by newspapers.

Q22 *If so, does this constitute a competitive concern for either individual PRA benchmarks or the PRA sector as a whole? Where appropriate, please refer to specific benchmarks.*

As stated, the principal obstacle to price-switching is the legacy issue, or “network effect” issue, associated with long-standing use of benchmarks. The erroneously perceived “power” of price-reporting services is in effect a by-product of this issue, and not the result of deliberate behaviour on the part of the services involved.

In ICIS’ view, the benchmark currently most affected by this issue is that for crude delivered into the Asian marketplace, whose price was linked historically to Dubai crude oil, and for the past decade to the Dubai-Oman complex. Given the ongoing erosion of supply of the physical crude streams associated with this complex, we question whether the pricing mechanism is sustainable in the medium term, or indeed relevant to the Chinese and other marketplaces.

Q23 *If you have concerns about competition relating either to individual PRAs or to the PRA sector or around individual benchmarks, please comment on how you think these could be addressed.*

In the case of Dubai-Oman pricing, ICIS would propose a collaborative industry review of the options available for alternative pricing strategies in the Asian marketplace.

The current situation is not, however, attributable to the behaviour of any single price-reporting organisation, but to the physical reality of crude supply streams from the Middle East, and the shifting balance of crude supply sourcing on the part of large Asian consumers.

Stakeholder representation

Q24 *Is there a need for structural reforms that would provide a process or mechanism for increased stakeholder representation or input of views? Given the use of PRAs by the oil industry, what mechanism would be needed to alleviate concerns of collusion?*

ICIS is not in a position comment on the oil industry's ability or inability to form an effective collaborative organisation. Nevertheless, it is clear that the constitution of such an organisation might go a long way to solving "log-jams" in the choice of benchmarks, and ICIS stands ready to cooperate with any initiative that seeks to resolve this problem. ICIS believes that its interactions with the industry in terms of the elaboration of ideas for market methodology development have hitherto been effective, while recognising that our overall role in the space is relatively small.

ICIS notes, however, that in any decision-making process about choice of benchmark there will be stakeholders whose views do not carry the day. It is these stakeholders, we presume, who have characterised price-reporting organisations as "quasi-regulatory" (IOSCO consultation document, page 23) – a charge which ICIS considers invidious and strenuously rejects.

Q25 *What should be included in the terms of reference or objectives of any such process? What are the benefits and risks?*

ICIS considers that such a process is a matter for the oil industry itself to resolve, and takes a "don't shoot the messenger" view of said process. ICIS stands ready, however, to participate to the full in any discussion of the process for choosing benchmarks on a more objective basis.

Q26 *Who, if any one, should provide any oversight for such a process?*

Such a process can only succeed on the basis of a collaborative industry-wide approach.

Options for oversight

Q27 *If required, what would be appropriate models for oversight of PRAs, covering the option described above and potentially others you may consider appropriate? What are the potential benefits and risks, if any? What economic impact, if any, would there be?*

ICIS is of the firm view that self-regulation is the best approach to the orderly conduct of price-reporting.

Given the open-ended, global nature of the physical oil complex, it is unclear in practical terms how a regulatory body could be constituted with effective powers to regulate the market, and by extension to regulate the activities of price-reporting services.

Partial regulation, in ICIS's view, as stated could have the undesirable effect of creating a two-tier marketplace.

Q28 *Do you believe that a self-regulated PRA Code of Conduct could appropriately mitigate any risks or concerns you have about PRA governance? Please explain any concerns or identified risks and give reasons for your answer.*

Yes. In ICIS' view the self-regulation code of conduct already drawn up for review between ICIS, Argus and Platts is the most effective approach to ensuring price-reporting worldwide follows the high standards set by these three organisations.

Although adherence such a Code would be voluntary, non-signature or non-compliance with the Code would send a powerfully negative signal to marketplaces about the fitness of a price-reporting service's informational products.

In addition, the existence of the Code would have the effect of levelling the playing-field between different information-providers, making it easier for market participants to make pragmatic, rather than political, choices of benchmark.

Q29 *Would your view of the application of a Code of Conduct change if the PRAs were held to account for its application by a public authority? Please explain and, if appropriate, state which authority or authorities would be best placed to hold the PRAs to account. What, if any, are the potential benefits and risks?*

It is not clear to ICIS whether any authority exists which could suitably "hold to account" the full gamut of price-reporting organisations which exists in the world today.

Nor is it clear what "hold to account" might mean in this instance. We would respectfully request further elaboration from IOSCO on this point.

Q30 *Should greater attention be focussed by all market authorities, namely exchanges, their governmental regulators and relevant SROs, on the reliability of price series and*

indexes that are constructed by oil PRAs? If "Yes" please comment on the objectives of and mechanisms for such greater involvement by these market authorities. If possible, please provide examples of financial instruments that raise price series/index reliability concerns.

There is no evidence, in ICIS' view, that price-reporting services have at any point over the course of the past 30 years had a detrimental effect on the operation of crude oil markets, nor that any price series published by a price-reporting service for the oil markets has been shown to be "unreliable."

Indeed, to the contrary, the presence of price-reporting services has massively contributed to the development of robust, efficient and transparent markets for oil worldwide.

In ICIS' experience, exchanges have taken a primarily pragmatic approach to the use of price series published by price-reporting services: namely, that if a substantial constituency exists for the use of a price series, it is likely that a market for risk management in that price series exists. Exchanges also appear already to have in place procedures for verifying whether a price series is determined by consistent means.

By contrast, attempts by exchanges to build an audience for a "constructed" benchmark, for example by launching futures contracts settled against artificial "baskets" of price assessments, in particular in the Middle East, have failed. By implication, "reliability" and market relevance are not a function of averaging.

Q31 *Should IOSCO and any other relevant authorities develop for regulated markets and other trading facilities which use PRA benchmark prices in their derivatives contracts a set of specific criteria against which the suitability of PRA benchmarks should be assess? If so, which criteria do you think should be included.*

This strikes ICIS as an eminently sensible step, though in essence it duplicates procedures for verification already put in place by regulated trading markets and exchanges.

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APPENDIX

**THE PRICE REPORTING CODE FOR
INDEPENDENT PRICE REPORTING ORGANISATIONS**

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THE IPRO CODE

An Independent Price Reporting Organisation (IPRO) may become a signatory to this code (the **IPRO Code**, or the **Code**) at any time by stating publicly that it has signed the Code and confirming that it intends at all times to seek to comply with the IPRO Code (as it may be amended from time to time).

The principles and price assessment standards for IPROs set out in this Code (the **Standards**) have effect from [[●] 2012] being the date on which the original signatories have affirmed their commitment to observe and comply with the IPRO Code.

The IPRO Code applies strictly to activities, policies and structures associated with the publication by the IPROs of price assessments in commodities markets, and does not govern the specific design or substance of methodologies used by IPROs for determining their price assessments.

By becoming a signatory to this Code, each IPRO undertakes to comply with and adhere to the Code, as amended from time to time, within 12 months of the date of signature. The date that is 12 months from the date of an IPRO becoming a signatory to this Code is the date that the Code will be deemed to have come into effect with respect to that IPRO.

This Code is available to the public without charge on the website of each IPRO.

The signatories to this Code may revise this Code to reflect changes in market, legal, and regulatory circumstances and changes to their policies and other controls. Any revision to this Code will require the written approval of at least two (2) of the three (3) original signatories to this Code, as well as a majority of all then-current signatories to this Code.

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Introduction

Independent Price Reporting Organisations (**IPROs**) are publishers and information providers who prepare and report, on a commercial basis, price assessments in relation to commodities and/or commodity derivatives for use by, among other organisations, market participants in their day to day commercial activities. “Independent” for this purpose means the absence of a vested interest in the markets on which the IPRO reports, including that it does not itself provide trading or clearing services with respect to those markets. The price assessments published by IPROs may be used, among other things, in relation to commodity contracts transacted in physical and derivative markets. IPROs provide an informed assessment of commodity and commodity derivative price levels, using a variety of methodologies, including those based on observed trading data and other available market information. IPROs may also provide commentary and write news stories relevant to the commodities markets for which they publish price assessments; such publishing activity is beyond the scope and purview of this Code.

It is recognised that a broad spectrum of parties, including producers, generators, refiners, processors, distributors, traders, manufacturers and other private and public organisations with interests in international commodity markets refer to and rely upon the integrity of the price assessment reporting process undertaken by IPROs and the ability of an IPRO to publish price assessments that are representative of market value.

A key purpose of the IPRO Code is to demonstrate to those parties that an IPRO signatory has committed at a minimum to meet the high standards and principles of good governance required and promoted by the Code and its other signatories, and in that sense it may also be regarded as a measure of best practice among IPROs. IPROs remain free to take measures which go beyond those addressed in this Code.

Scope and interpretation

The IPRO Code applies in full to any IPRO which becomes a signatory; IPROs may not choose to adopt only a portion of the IPRO Code.

Where relevant, the Standards prescribed in the IPRO Code are intended to apply equally to all persons employed or otherwise engaged by and operating under the control of an IPRO to the extent they are involved in price assessment activities.

The IPRO Code is comprised of a number of Standards each of which is set out below in bold text. Following each Standard are additional guidelines (the **Guidelines**), the purpose of which is to provide commentary on how each of the Standards may be interpreted and how IPROs may seek to achieve compliance with the Standard; the Guidelines are set out in italicised text.

References in the IPRO Code to “price assessment activities” and “price assessment processes” refer to the processes by which an IPRO establishes and maintains its price assessment methodologies, receives transaction data and other information from market participants, applies its methodologies to the data and information it receives, and determines its price assessments.

It is expected that an IPRO will have regard to the Guidelines in interpreting all of the Standards set out below.

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Monitoring of compliance with the IPRO Code

At the end of the 12 month period following the date on which this Code comes into effect for an IPRO and annually thereafter, each IPRO shall prepare, as appropriate, an Attestation of Compliance or an Explanation of Material Non-compliance. The Attestation of Compliance or Explanation of Material Non-compliance shall be signed by the IPRO's chief executive officer and shall be published prominently on the IPRO's website. In the case of an Explanation of Material Non-compliance, the explanation shall include the reason(s) for each case of material non-compliance and set forth a description of the remedial steps the IPRO will take (or, as the case may be, is already taking) to achieve compliance in the future.

In addition, on a periodic basis¹, each IPRO shall engage an internationally recognized external audit firm of its choosing or independent internal audit group within the IPRO's corporate organisation, to conduct an independent review of its compliance with the IPRO Code. The results of the review should be summarized in a report to that IPRO issued by the auditor and published by the IPRO within 30 days on its website.²

1. Governance

Standard 1: An IPRO shall maintain robust governance arrangements, including a clearly defined management structure with transparent lines of reporting and consistent allocation of authority and responsibility.

- 1.1 *It is the responsibility of the IPRO's Board, senior management of its ultimate corporate parent or equivalent body to provide oversight so that the IPRO's senior managers have the requisite skills, capacity, knowledge and experience to perform the duties assigned to them.*
- 1.2 *The Board, senior management of its ultimate corporate parent or equivalent body of the IPRO should provide oversight so that relevant employees of the IPRO are allocated with specific duties and responsibilities in relation to oversight and control functions, including a compliance infrastructure, regarding price assessment activities and have sufficient delegated authorities and resources to be able to discharge those duties and responsibilities effectively.*
- 1.3 *An IPRO should have in place appropriate reporting lines and organizational structures to facilitate effective checks and balances and transfers of management information to appropriate senior managers throughout the IPRO's organisation. Specifically, an IPRO's compliance and internal audit functions should report to senior management independently of editorial, product management and sales functions.*
- 1.4 *There should be a mechanism such that instances of material non-compliance with this Code are identified and escalated promptly to senior management of the IPRO.*

¹ Frequency to be determined following stakeholder consultation.

² In the event of an acquisition by any signatory IPRO of an IPRO which is not a signatory to this Code, the acquiring IPRO will use all reasonable efforts to bring the acquired IPRO into conformance with this Code as soon as practicable.

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- 1.5 *An IPRO should conduct regular training for staff on the IPRO's methodologies and relevant policies and procedures in relation to the handling of confidential information, conflicts of interest, personal account dealing, editorial independence and data integrity.*

2. **Managing and mitigating conflicts of interest**

Standard 2: An IPRO shall seek to avoid actual or potential conflicts of interest arising in relation to its price assessment activities; to that end an IPRO shall establish a policy and control system designed to mitigate the risk of conflicts arising and to manage those that may arise.

- 2.1 *An IPRO should adopt, keep updated and make public on its website a written **conflicts policy** setting out the measures that it has taken and will take to monitor for, mitigate and manage actual or potential conflicts of interest which may arise from time to time, including those pertaining to its publishing and other businesses.*
- 2.2 *An IPRO should take reasonable steps to maintain a clear separation, structurally and operationally, between its price assessment activities and its other activities which could give rise to the risk, existence or perception of a conflict of interest.*
- 2.3 *Remuneration arrangements for staff engaged in price assessment activities should be determined having regard to the elimination or mitigation of any actual or potential conflicts of interest between the interests of those individuals and the interests of the IPRO and between the interests of those individuals and the interests of market participants.*
- 2.4 *An IPRO should adopt and keep updated a written **personal account dealing policy** applicable to all of its staff. The policy should seek to prohibit the IPRO's employees and other staff who are involved in price assessment activities, and persons closely connected with them, from engaging in any personal account trading activity which may give rise to the risk, existence or perception of a conflict of interest.*
- 2.5 *An IPRO should adopt and keep updated a **gifts policy** applicable to all of its staff who are involved in price assessment activities, which should prohibit such persons from soliciting gifts or favours in a business context, and from accepting a gift offered if the value of the gift exceeds an appropriately prudent monetary value.*
- 2.6 *An IPRO should review the work undertaken over a reasonable period of time by any member of its staff who was engaged in price assessment activities and leaves to work for or on behalf of a market participant where that individual has been involved in evaluating and reporting the price of a commodity in which the market participant is active to determine whether any actual or potential conflict of interest had arisen. Where an IPRO has become aware that an employee who is engaged in price assessment activities has accepted an offer of employment from a market participant, that employee should promptly be excluded from engaging in price assessment activities for that IPRO in the area of his/her future employment with the new employer.*
- 2.7 *An IPRO should make public on its website information concerning (a) the legal structure of the IPRO and the identity of any person or organisation which, directly or*

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indirectly, owns or controls more than 20% of the share capital or voting rights in the IPRO and (b) any organisation from which the IPRO derived more than 10% of its annual revenue in the most recent full financial year.

3. The integrity and transparency of the price reporting process

Standard 3A: An IPRO shall publish or otherwise make freely available the methodologies used by that IPRO to produce its price assessments. The methodologies shall be designed to produce price assessments that are representative of market value.

- 3.1 *The IPRO's methodologies should be available free of charge via the IPRO's website to support and underpin transparency and to provide market participants with a basis to compare and evaluate the methodologies of different IPROs relative to each other.*
- 3.2 *An IPRO should take into account feedback received from subscribers, data contributors and other market participants in the context of any review of its methodologies or price assessment processes.*

Standard 3B: An IPRO shall publish price assessments that are in accordance with its methodologies.

- 3.3 *An IPRO should devote sufficient resources and support so that its price reporting staff have appropriate skills, capacity, knowledge and experience to perform the duties assigned to them to enable the IPRO to comply with Standard 3B.*
- 3.4 *Each price assessment produced by an IPRO should be fully in accordance with the relevant published methodology.*
- 3.5 *An IPRO should adopt, implement and enforce written policies and procedures designed so that its methodologies and price assessment processes are systematically applied by price reporting staff and any demonstrable failure to adhere to such methodologies or processes is subject to internal review and, if appropriate, a disciplinary process.*

Standard 3C: An IPRO shall establish and maintain appropriate procedures and safeguards to maintain and preserve the independence from conflict of staff that are engaged in the price assessment process.

- 3.6 *An IPRO should take all reasonable steps so that its commercial interests in commercialising its price assessment publications or services do not impair the independence from conflict or the integrity of its price assessments.*
- 3.7 *Such steps should include the maintenance of appropriate and effective barriers between the price reporting function and those individuals responsible for the marketing and sale of price assessment publications and services.*
- 3.8 *Such steps should include at a minimum that operations relating to the price reporting processes are overseen by senior officers within the IPRO with sufficient authority to maintain effective oversight of the composition, policies, procedures and day-to-day operations of the price reporting function.*

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- 3.9 *An IPRO should arrange its internal reporting lines so that the independence from conflict of its price reporting staff is not, nor is perceived to be, compromised.*
- 3.10 *The remuneration arrangements for price reporting staff should not be linked to the revenues derived from sales of price assessment publications or services to any individual subscriber.*

Standard 3D: An IPRO shall seek to comply at all times with applicable laws and regulatory requirements.

- 3.11 *An IPRO should allocate appropriate resources, and have in place adequate control systems, so that the IPRO and its staff can comply with all applicable laws governing its price reporting activities in each jurisdiction in which it operates.*
- 3.12 *An IPRO's executives and staff should be held to high professional standards of integrity and propriety, and an IPRO should implement measures designed so that it does not engage or retain staff with demonstrably compromised integrity or propriety.*
- 3.13 *An IPRO should maintain a "whistleblowing" policy so that members of staff have a means by which to raise concerns regarding unlawful or inappropriate practices.*
- 3.14 *An IPRO should, where practicable and appropriate, make available to government officials, regulators, market participants and other relevant interested parties, members of its senior management involved in price assessment activities to provide education relating to the IPRO's price assessment activities*

4. Non-discriminatory participation and data collection processes

Standard 4A: An IPRO shall have clear policies and processes for collecting, evaluating and utilising data for purposes of its price assessments.
Standard 4B: An IPRO shall deal fairly and consistently with all market participants in relation to its price assessment activities.

- 4.1 *If an IPRO has rules governing which market participants may be admitted to the constituency of persons inputting trade or other data into the IPRO's price assessment processes, the IPRO should publish such rules and the factors and criteria which the IPRO regards as being most relevant to such admittance.*
- 4.2 *Criteria for inclusion or exclusion of transaction data in the process of determining a price assessment should be set out in the IPRO's relevant methodology.*
- 4.3 *Decisions as to whether to consider or exclude transaction data provided by a market participant should not be influenced by the amount of revenues received from that applicant or market participant and in general, all such decisions should be made in a fair and non-discriminatory manner.*

5. Timely publication of price assessments, corrections and methodology modifications

Standard 5A: An IPRO shall seek to disseminate its price assessments in a timely manner and shall promptly publish any material corrections or updates to those assessments.

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- 5.1 *An IPRO should publish its price assessments, and any material corrections to those assessments, in a timely, consistent and transparent manner.*

Standard 5B: An IPRO shall, where reasonable and practicable to do so, consult with market participants in relation to any material proposed changes to its price assessment methodologies. An IPRO shall disclose modifications of its methodologies on its website in a timely manner.

- 5.2 *Consistent with Guideline 3.2 above and in order to minimise the risk of market disruption and to promote fair dealing with market participants, an IPRO should, where reasonable and practicable to do so, consult with market participants in advance in relation to any material proposed changes to its price assessment methodologies.*

- 5.3 *An IPRO should publish material changes to any of its methodologies in a timely and transparent manner.*

Standard 5C: An IPRO shall maintain reasonable business continuity and disaster recovery plans, the purpose of which is to enable the IPRO to continue to publish price assessments in an orderly and timely manner notwithstanding the occurrence of disruptive events.

6. **Monitoring and detecting of non-representative transaction data in connection with price discovery.**

Standard 6A: As part of its price assessment processes, an IPRO shall maintain controls to monitor for and detect data that is provided to the IPRO by market participants that does not conform to the IPRO's methodology.

- 6.1 *An IPRO shall use data in conformity with its relevant methodology in determining its price assessments.*

Standard 6B: An IPRO shall provide reasonable cooperation to regulatory or governmental authorities in relation to proper and legitimate enquiries or investigations regarding third parties.

- 6.2 *Subject to any applicable legal or regulatory restrictions or rights or obligations, including in particular restrictions or rights relating to the IPRO's receipt, use or disclosure of confidential or otherwise sensitive information, an IPRO should provide reasonable cooperation with proper and legitimate enquiries or investigations regarding third parties by regulatory or governmental authorities seeking information that the IPRO has published as part of its price reporting activities.*

7. **Responding to complaints**

Standard 7A: An IPRO shall maintain policies and procedures for the prompt and fair handling of complaints.

- 7.1 *An IPRO should have in place a mechanism, detailed in a written **complaints handling policy**, by which its subscribers may submit complaints on whether a specific price assessment is representative of market value, proposed methodology changes, applications of methodology in relation to a specific price assessment and other editorial decisions in relation to price assessment processes. This policy should be prominently published on the IPRO's website.*

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- 7.2 *An IPRO should ensure that its written **complaints handling policy** includes, among other things, the process and target timetable for the handling of complaints.*
- 7.3 *Oversight of the complaints handling policy, including ultimate right of appeal under it, should be by an independent non-executive member of the IPRO's Board, senior management of its ultimate corporate parent or equivalent supervisory body, or by the IPRO's Chief Compliance Officer or equivalent position.*

8. Confidential information and record-keeping

Standard 8A: An IPRO shall observe appropriate standards of confidentiality.

- 8.1 *An IPRO should adopt appropriate control systems and procedures to protect the confidential nature of information received by it from market participants in connection with its price assessment activities, if and to the extent such information is disclosed to the IPRO as being confidential in nature.*
- 8.2 *An IPRO should adopt and keep updated a written **policy on the handling of confidential information** and accompanying procedures designed so that relevant members of the IPRO's staff are made aware of any obligations to which the IPRO is subject to treat data received from market participants as confidential.*

Standard 8B: An IPRO shall maintain proper and up-to-date records in connection with its price assessments, policies, procedures and internal decision-making in relation to its price assessment processes.

- 8.3 *An IPRO should maintain adequate internal records in connection with its price assessment processes. Such records should be maintained for a reasonable period of time (and otherwise in accordance with applicable laws) and should include:*
- (A) *transactional and other data inputs that were used in determining price assessments;*
 - (B) *a record of fees received in relation to subscriptions to price assessment services;*
 - (C) *copies of internal written policies;*
 - (D) *a complaints log;*
 - (E) *where applicable, records of decisions to admit, suspend or exclude a market participant from the IPRO's price assessment activities and the information on the basis of which that decision was made.*

9. Other

- 9.1 *No IPRO assumes, or may be implied to assume, an obligation, duty or liability to any third party by virtue of becoming or being a signatory to this Code or by making this Code available to the public. Nor shall the Code create any contract with any third party or create third party rights to enforce any provision of the Code (directly or indirectly, contractual or otherwise) against an IPRO.*

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DATE OF SIGNATURE BY ORIGINAL SIGNATORIES: [], 2012