



# EFTERM<sup>®</sup> Code of Obligations of Calculation Agent

EFTERM<sup>®</sup> Governance Framework

## Document Information

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# 1. Definitions and conventions

BMR	Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investments funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014.
RTS	Commission Delegated Regulations (EU) supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council.
GCC	The Governance Code of Conduct sets out the governance arrangements and control framework established by EMMI, in its role as administrator of EFTERM, for the provision of the benchmark.

## *Reference to regulatory requirements*

For ease of reference, EMMI includes an explicit reference to the applicable legal requirement, if any, in the left column of each document of the EFTERM Governance Framework, e.g.

*BMR 5, 3(c)* Refers to article 5, paragraph 3, point (c) in the EU BMR.

If the requirement arises from a regulatory technical standard (RTS) adopted by the European Commission, EMMI refers to the RTS by indicating the article for which it provides further specification, e.g.

*RTS 5, 2.1* Refers to article 2.1 on the RTS further specifying the requirements in EU BMR article 5 on procedures and characteristics of the oversight function.

In case the corresponding RTS includes an annex complementing its main text, reference to the annex will be made applying the same logic, e.g.

*Annex 5, 1* Refers to article 1 in the annex to the RTS article further specifying the requirements of EU BMR article 5.

## 2. Purpose

- |           |    |   |
|-----------|----|---|
| BMR 10    | 1. | The European Money Markets Institute (EMMI) as a Benchmarks Administrator, has a responsibility of defining and implementing robust governance and control arrangements for functions that are outsourced in the provision of EFTERM.     |
| BMR 10, 1 | 2. | In particular, EMMI shall ensure that outsourced functions in the provision of EFTERM do not materially impair EMMI's control over the provision of EFTERM or the ability of its competent authorities to supervise EFTERM .              |
| BMR 10    | 3. | The objective of the EFTERM <b>Code of Obligations of Calculation Agent ("COCA")</b> is to set out the requirements for the EFTERM Calculation Agent ("Calculation Agent") in acting as an agent of EMMI for the determination of EFTERM. |

## 3. Authority and status

- |        |    |   |
|--------|----|---|
| BMR 10 | 4. | The COCA is an integral component of the Governance Framework and has been adopted on <b>27 September 2022</b> by EMMI's Board of Directors. It shall be reviewed if and when appropriate.  |
|        | 5. | The standards set in this COCA are additional to and do not supersede any relevant legislation, regulation or regulatory guidance applicable to EMMI. EMMI and the competent supervisory authorities should be notified of any potential inconsistencies between the COCA and such legislation or regulation. |
|        | 6. | The standard set out in this COCA do not replace or supersede any requirement established contractually between EMMI and the Calculation Agent.   |

## 4. Calculation agent role and obligations

### 4.1. General requirements

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|----------------|----|---|
| BMR 10, 3(a)   | 7. | The Calculation Agent must have the ability, capacity, and any authorisation required by law, to perform the calculation agent services reliably and professionally.  |
| RTS 13, 2.1(m) | 8. | The Calculation Agent has the responsibility for the following: <ul style="list-style-type: none"> <li>a) the efficient and timely operation of the daily EFTERM determination process as defined in the Benchmark Determination Methodology for EFTERM (BDM), with due regard for upholding the quality of the benchmark determination;</li> <li>b) pre- and post-calculation data controls defined by EMMI;</li> <li>c) the accurate and timely dissemination of the calculated EFTERM rates to EMMI for publication;</li> <li>d) the regular reporting to EMMI on the quality of input and output data;</li> <li>e) the record retention of daily calculation events and actions taken in accordance with the requirements set out in section 5; and</li> <li>f) immediately escalate to EMMI any significant issue that occurs during the calculation of EFTERM, including but not limited to, contingency, business continuity and disaster recovery scenarios, as established contractually.</li> </ul> |
|                | 9. | The Calculation Agent may undertake further data analysis and quality roles for EMMI, in particular assisting in the post-calculation data controls performed by  |

EMMI, using its expertise in these fields, provided that both parties agree on such responsibilities explicitly.

- BMR 10, 3(e)
10. The Calculation Agent will provide the primary benchmark calculation infrastructure and shall maintain the ability to collect input data and to calculate and transmit EFTERM to EMMI when the primary infrastructure is unavailable.
  11. The Calculation Agent must carry out the calculation agent services in compliance with applicable laws and regulations, as well as with relevant policies established by EMMI, as defined contractually.
  12. The Calculation Agent must report immediately to EMMI in case of any development that may have a material impact on its ability to carry out the calculation agent services effectively and in compliance with applicable law and regulatory requirements.
  13. The Calculation Agent shall cooperate with the relevant competent authorities in connection with the outsourced activities. The administrator and the relevant competent authorities shall have effective access to data related to the outsourced activities, as well as to the business premises of the Calculation Agent. The relevant competent authorities shall be able to exercise those rights of access.

## 4.2. Governance and control framework

- BMR 10, 1  
BMR 10, 3(f)
14. To perform the responsibilities described in section 4.1 (8), the Calculation Agent should establish and/or maintain robust governance arrangements and control frameworks, including but not limited to:
    - a) governance processes and internal controls which apply to the determination of EFTERM;
    - b) a control framework for the determination of EFTERM, with accountable named managers of appropriate seniority;
    - c) robust systems and operational infrastructures, with appropriate resiliency including a disaster recovery capability, in order to ensure the consistent and timely determination of EFTERM;
    - d) policies and procedures for handling and making appropriate disclosure and correction of operational, computational or other errors which may affect the level of the calculated EFTERM rates;
    - e) policies and procedures to maintain high standards for confidentiality and data protection in relation to its role as Calculation Agent;
    - f) policies and procedures to identify and to prevent or manage conflicts of interest in relation to its role as Calculation Agent;
    - g) clear communication processes with EMMI;
    - h) a reporting framework on the quality of the EFTERM determination process – including of the input data – as defined contractually.

## 4.3. Accountability framework

15. The Calculation Agent should have in place an accountability framework, covering the following processes in relation to its activities as EFTERM calculating agent: record-keeping; auditing and reviews; complaints.

## 5. Record-keeping

16. The Calculation Agent shall develop and maintain its own record-keeping policy.
17. The record-keeping obligations of the Calculation Agent shall be detailed in the contractual agreement between the Agent and EMMI.

## 6. Audit and reviews

18. The Calculation Agent should have in place internal reviews and audit arrangements to provide assurance on the effectiveness of the controls in place, taking into consideration its responsibility as EFTERM Calculation Agent and its core processes and procedures.
19. In particular, the Calculation Agent shall permit an external audit to review and report on the Calculation Agent compliance with its obligations, as established contractually, at least annually.

## 7. Complaints and whistleblowing

20. The Calculation Agent shall establish procedures for receiving, investigating and retaining records concerning complaints made in relation to EFTERM.
21. The Calculation Agent shall establish whistleblowing arrangements for the reporting of potentially suspicious or manipulative activity.