

## 2016 CONFLICT OF INTEREST OVERSIGHT COMMITTEE REPORT TO THE BOARD OF DIRECTORS

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### Foreword

If 2015 represented a turning point for EMMI in the establishment of robust and sound practices for the prevention, identification and management of conflicts of interest, 2016 was, on the other hand, the opportunity of making use of, or adapting where needed, these new mechanisms.

The Conflict of Interest Oversight Committee (“CIOC”), helped by EMMI’s Secretariat, focused its efforts on an enhancement of the Conflict of Interest Policy and Procedure and on the application of effective tools in order to ensure its full implementation.

The CIOC supported EMMI in this process by recommending specific and tailored actions to improve the control system on conflict of interest.

In light of the new regulatory requirements which give the highest priority to a sound and robust management of conflicts of interest, the CIOC has maintained its work and continued to promote awareness and best practices at all levels of EMMI. In this context, the CIOC has contributed to the activation of preventive measures and the training of the staff. Other actions include the participation in meetings of the Board of Directors and regular discussions with the Secretary General and the Chairmen of the EMMI governing bodies. These actions have allowed the CIOC to remain informed about evolutions affecting EMMI’s internal and external environment.

As Chairman of the CIOC, I thank my colleagues in the CIOC for their active participation in the discussions as well as the Secretary General and the staff of EMMI for their support. I hope that the continued efforts of all parties concerned in assuring full transparency will contribute to providing the trust and confidence of market participants in the work of EMMI.

**Karel VAN HULLE**

Chairman of the Conflict of Interest Oversight Committee



## 1. Role and Responsibilities of the Conflict of Interest Oversight Committee

The Terms of Reference of the CIOC are included in the Conflict of Interest Policy and Procedure whose last revision was approved by the General Assembly on 4 April 2017.

The duties of the CIOC are clearly defined in the Terms of Reference, while the specific activities to be performed in the prevention, identification and management of conflicts of interest are further detailed in the relevant sections of the Conflict of Interest Policy and Procedure.

The main areas of activity of the CIOC include:

- a) Monitoring the effectiveness of the Conflict of Interest Policy and of the procedure to manage and mitigate conflicts of interest situations;
- b) Monitoring the potential situations of conflict of interest, arising out of the administration of each of the EMMI Benchmarks, the STEP Market Convention, or the functioning of EMMI at the association level; advising the Board of Directors, or the General Assembly where relevant, on how to deal with these situations;
- c) For the purpose of identifying relevant conflicts, considering:
  - communications made by Relevant Persons;
  - representations or complaints made from external parties to EMMI;
  - other internal EMMI documents and information.
- d) Advise the Steering Committee, the Board of Directors, or the General Assembly where

The activities carried out by the CIOC for each of the areas described above are detailed in section 3 of this report.

## 2. Composition of the Conflict of Interest Oversight Committee

In accordance with the Terms of Reference, the CIOC must be composed of at least 3 Members (one Chair and two Members) chosen among experts with recognized independence, standing and experience in financial markets and/or financial services and/or in financial regulations and control systems.

The following persons were members of the CIOC in 2016:

- Mr Karel VAN HULLE (Chairman), originally appointed in February 2014 and reappointed in March 2016, previously Head of Unit at the European Commission, currently Professor at the KU Leuven and at the Goethe University in Frankfurt and Member of the Public Interest Oversight Board;
- Mr Stefano CARCASCIO, originally appointed in February 2014 and reappointed in March 2016, previously Head of Supervision of Financial Markets, and Representative in the UK of Banca d'Italia, currently Member of the Board at the Italian Chamber of Commerce for the UK and Member of the Advisory Board at OMFIF - Official Monetary and Financial Institutions – London. He is also independent member of the Board of CSR Bank;
- Mr Robert PEIRCE, appointed in September 2016, senior audit partner at PWC for more than 25 years and former chairman of the Belgian Accredited Financial Services Auditors, currently Professor at Louvain School of Management and at Solvay School of Economics.

The Members are elected by the General Assembly for a two-year renewable mandate.



### 3. Activities of the Conflict of Interest Oversight Committee for the year 2016

The CIOC held two meetings during 2016: on 29 February and on 17 October.

At the first meeting, the CIOC evaluated the implementation and effectiveness of the recommended actions, approved a revised Conflict of Interest Policy and Procedure and analysed relevant documents for the identification of potential, perceived or actual conflicts of interest. The CIOC also provided additional recommendations to ensure the full and effective implementation of the Conflict of Interest Policy.

At the second meeting, the CIOC evaluated the implementation and effectiveness of the recommended actions, approved a revised Complaints Policy and Procedure and a revised Whistleblowing Policy and Procedure and analysed relevant documents for the identification of potential, perceived or actual conflicts of interest.

At both meetings, the CIOC also provided additional recommendations to ensure the full and effective implementation of the Conflict of Interest Policy.

#### 3.1 Monitoring the effectiveness of the Conflict of Interest Policy and of the procedure to manage and mitigate conflicts of interest situations

##### 3.1.1 Conflict of Interest Policy and Procedure

The CIOC analysed and approved a revised Conflict of Interest Policy and Procedure for adoption by the Board of Directors and the Steering Committee.

The revision was mainly aimed at:

- integrating and simplifying existing policies and procedures on conflicts of interest<sup>1</sup>;
- reviewing and clarifying the three-tier approach proposed by the CIOC to handle potential conflicts of interest;
- clarifying roles and responsibilities of the EMMI Governing Bodies, of the Steering Committee and of the EMMI Secretariat;
- aligning the procedure to manage perceived and actual conflict of interest situations with the escalation and decision-making processes currently in place at EMMI;
- complying with the requirements of the EU Regulation on “Indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds”.

The revised Conflict of Interest Policy and Procedure contributes to enhance the effectiveness of the practices in place to prevent, identify and manage conflicts of interest by providing clear operational guidelines to the relevant persons within EMMI<sup>2</sup>.

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<sup>1</sup> The following policies and procedures were in place: Euribor Conflict of Interest Policy approved by the Steering Committee on 26.09.2013; EMMI Conflict of Interest Policy applicable at Association level and approved by the General Assembly on 13.12.2013; Conflict of Interest Procedure applicable to both Policies and approved by the General Assembly on 21.03.2014

<sup>2</sup> According to the Conflict of Interest Policy and Procedure, Relevant persons include members of EMMI General Assembly (Banking Associations), members of the Board of Directors, members of the Audit Committee, the Secretary General, members of the Secretariat, members of the Euribor Steering Committee, members of the STEP Market Committee.



The CIOC agreed to include as a standing item on its Agenda a close monitoring of the implementation of the Policy.

### *3.1.2 Declarations of interests*

The CIOC revised the format of the declaration of interests to be signed on an annual basis by the members of the Steering Committee, with the objective of ensuring that the declaration of interests serves as a comprehensive statement (i.e. aiming at all relevant interests).

The CIOC reviewed all the signed declarations of interests received for the year 2016.

## **3.2 Monitoring potential situations of conflict of interest, arising out of the administration of each of the EMMI Benchmarks, the STEP Market Convention, or the functioning of EMMI at the association level; advising the Board of Directors, or the General Assembly where relevant, on how to deal with these situations**

In 2016, the mapping of conflicts of interest carried out during the previous year was implemented and closely followed.

## **3.3 Identifying relevant conflicts**

For the purpose of identifying actual or perceived conflicts of interest, the CIOC analysed the following documents:

### *3.3.1 Communication made by relevant persons*

According to the Conflict of Interest Policy and Procedure, the CIOC expects that relevant persons communicate their interests through an annual declaration. One single exception applies to the Members of the General Assembly. In fact, since the Members are sitting in the Assembly as representatives of the national banking associations, the respective association is also responsible for ensuring that conflicts of interest are managed by its representatives in General Assembly meetings.

In order to increase individual awareness and responsibility in managing potential conflicts within the General Assembly, the CIOC recommended to ask the national banking associations to appoint one delegate (and one alternate) as permanent participant in the meetings of the EMMI General Assembly.

For the year 2016, the CIOC analysed the following (new/updated) declarations:

- Declarations of interests of the Members of the Board of Directors;
- Declarations of interests of the Members of the Steering Committee;
- Declarations of interests of the Members of the EMMI Secretariat;
- Declarations of adherence of the Members of the STEP Market Committee.



The declarations were examined taking into consideration the biographies of each of the signatories and their respective roles and responsibilities. The CIOC concluded that the interests disclosed in the declarations did not show any actual or potential conflict save for the chairman of the Audit Committee, as detailed below.

The CIOC recommended to increase the awareness of the Members of the Governing Bodies and Steering Committee on their individual responsibility in the identification and prompt reaction to conflict of interest situations. Accordingly, a specific statement is now included in the agenda and minutes of all Governing Bodies' meetings stating that *"Members are appointed on a personal basis and should not be subject to instructions from the company/organization they are affiliated to (if any). Members are personally responsible to recuse themselves from relevant decision making in the event a conflict of interest situation might arise"*.

### 3.3.2 Representations or complaints made from external parties to EMMI

In 2016, EMMI did not receive any representation or complaint on conflict of interest related matters from external parties.

### 3.3.3 Other internal EMMI documents and information

The CIOC analysed the following internal documents:

- Agenda and Minutes of General Assembly meetings;
- Agenda and Minutes of Board of Directors meetings;
- Agenda and Minutes of Steering Committee meetings.

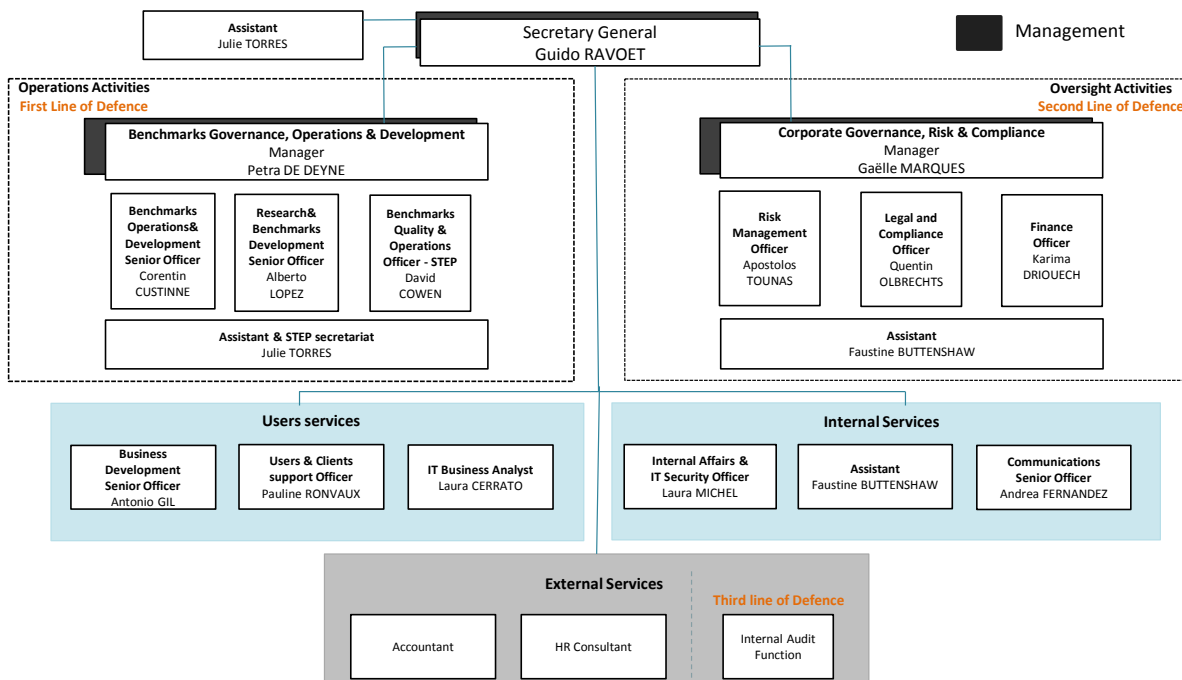
After the analysis, the CIOC concluded that the documents concerned did not show any conflict of interest situation.

Due to the amount of information included in the relevant documents provided to the CIOC, the CIOC suggested the Secretariat to increase the efficiency of the analysis by providing the CIOC with a summary of the decision-making points in order to focus on relevant items of the agendas of the Governing Bodies and the Steering Committee.

Additionally, the CIOC reviewed the EMMI organizational chart in order to ensure transparency of roles and responsibilities and to facilitate the identification of conflict of interest situations.

The following improvements were recommended by the CIOC and immediately included in the organizational chart:

- clear identification of the three lines of defence;
- indication that the benchmark determination and publication process is outsourced to an independent Calculation Agent;
- identification of the different control mechanisms (internal audit acting as third-line of defence and external audit).



The CIOC reviewed the EMMI organizational structure in light of the provisions included in the EU Regulation: *“the provision of a benchmark shall be operationally separated from any part of the administrator’s business that may create an actual or potential conflict of interest”*.

The CIOCs analysed the EMMI organizational chart with particular reference to the fact that benchmark operations and STEP market activities are both included in the first line of defence.

The CIOC agreed that, according to the information at their disposal, STEP market activities do not have any influence on benchmark activities and cannot be a source of conflicts of interest affecting the benchmark administration.

### 3.4 Advising the Steering Committee, the Board of Directors, or the General Assembly where relevant, on actions to be taken in respect of actual or perceived conflicts of interest

In the year 2016, the CIOC identified one perceived and one actual conflict of interest situation.

The perceived conflict of interest situation related to the (corresponding) membership of EMMI with the European Banking Federation (“EBF”). It was escalated to the Board of Directors and settled in November 2016 as follows: (i) reducing for 2017 the membership contribution to EBF by 50% and considering 2017 as a transitional year, and (ii) mandating the Secretary General to negotiate a Service Level Agreement (“SLA”) with EBF and to discontinue the membership as of 2018. Negotiations of such SLA have been initiated.

The actual conflict of interest situation related to an external mandate of the Chairman of the Audit Committee of EMMI, who also serves as a member of the Audit and Budget Committee of EBF. Before activating the formal procedure with the General Assembly as described in the Conflict of Interest Policy and Procedure, it was decided that the Chairman of the Board of Directors and the General Assembly and the Chairman of the CIOC would meet



with the Chairman of the Audit Committee to discuss the situation and to hear his opinion. The meeting took place on 17 January 2017 and resulted in a satisfactory solution which was resolved upon and approved by the CIOC during its first meeting of 2017 (i.e. 1<sup>st</sup> February 2017). The final conclusion of the CIOC was that the conflict of interest firstly identified as Tier 3 (i.e. preventing the person from exercising his role) should actually be considered a Tier 1 (i.e. the person needs to recuse himself from ad hoc discussions). The Chairman of the Audit Committee will systematically step out (as he already did by the past) of any discussions/issues at the Audit Committee relating to relationship with EBF (membership/SLA). Therefore, the CIOC decided not to advise on the dismissal of the Chairman to the Audit Committee, nor to object to the renewal of his mandate for 2017 and 2018.

The CIOC did not receive any communication or request for advice on actual or perceived conflict of interest situations from EMMI relevant persons or from third parties.

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