



Efterm[®] Oversight Committee Terms of Reference

Efterm[®] Governance Framework

Document Information

Document title	Efterm® Oversight Committee Terms of Reference		
EMMI reference	D0355B-2022	Status:	Approved
Original version			
Approved by	Board of Directors	Approval Date:	27 September 2022
Previous version			
Approved by	N/A	Approval Date:	N/A
This version			
Approved by	Oversight Committee (recommendation) Board of Directors	Approval Date:	5 December 2024

History

Version	Date Applicable	Summary of Changes
v1	14-11-2022	Original version
v2	05-12-2024	Reviewed by Oversight Committee and Board of Directors with no change

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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. Responsibilities of the Efterm Oversight Committee

2.1. Purpose

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|---|---|
| <p>BMR 5, 1
BMR 5, 4
RTS 5, 21</p> | <p>1. The Efterm Oversight Committee is an independent committee established by the European Money Markets Institute (EMMI) that exercises an independent oversight of all aspects of the provision of the Efterm index, including those concerning its governance and methodology.</p> |
| <p>BMR 5, 2
RTS 5, 3.1(a)</p> | <p>2. The procedures and governance arrangements related to the composition, duties and functioning of the Oversight Committee are established in the present Terms of Reference.</p> <p>3. These Terms of Reference are based on the EU BMR¹ Article 5 ('Oversight function requirements'), Annex I (3) ('Interest rate benchmarks') and related regulatory technical standards (RTS). They have been adjusted based on the complexity and potential use of the Efterm index.</p> |
| <p>RTS 5, 3.1(a)</p> | <p>4. These Terms of Reference form an integral component of the Governance Code of Conduct and have been adopted on 27 September 2022 by the EMMI Board of Directors (hereinafter, the Board). They shall be reviewed if and when appropriate, at least every two years.</p> |

2.2. Duties

General requirements:

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| <p>Annex 5</p> | <p>5. The Efterm Oversight Committee shall ensure oversight of all aspects of the provision of the Efterm index, including those concerning its governance and methodology.</p> <p>6. The Efterm Oversight Committee shall promote the implementation of the Governance Framework, check compliance, monitor its effectiveness and propose changes.</p> <p>7. The Efterm Oversight Committee shall also monitor market developments.</p> |
| <p>Annex 5</p> | <p>8. The Efterm Oversight Committee shall have the possibility to create sub-committee(s), working group(s), task force(s) to perform a subset of the oversight responsibilities and tasks, provided that the Chairperson remains responsible for the overall direction and coordination of the Oversight Committee and for interaction with the Board and the competent authority.</p> |
| <p>RTS 5, 3.1(j)</p> | <p>9. To carry out their duties, the Efterm Oversight Committee shall be supported by EMMI's staff. The oversight function shall have direct access to the information</p> |

¹ Regulation (EU) 2016/1011

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pertinent to the proper performance of its duties and can dispose of all resources necessary to perform its tasks.

Regarding the administrator:

- RTS 5, 2.2.** 10. To assess, and where appropriate challenge, the decisions of the administrator with regards to the provision of benchmarks to ensure the fulfilment of the requirements of the EU BMR. Without prejudice of their reporting responsibilities defined in section 4.4 below, the Efterm Oversight Committee shall address all recommendations on benchmark oversight to the Board of Directors.
- RTS 5, 2.3.** 11. Where the Efterm Oversight Committee becomes aware that the Board has acted or intends to act contrary to any recommendations resulting from a decision of the Efterm Oversight Committee, it shall record this fact clearly in the minutes of its next meeting, which shall be made public. The minutes will be shared with the Board of Directors prior to publication.

Regarding methodology and input data:

- BMR 5, 3(a)** 12. To review the benchmark's definition and methodology at least annually and make recommendations to the Board.
- BMR 5, 3(b)** 13. To define what constitutes a material change of the benchmark, to oversee such changes and ensure that stakeholder consultation procedures concerning material changes of the benchmark are performed in accordance with the EMMI Benchmarks Consultation Policy.
- BMR 5, 3(b)** 14. To oversee, monitor and approve the implementation of proposed changes to the benchmark.
- BMR 5, 3(d)** 15. To review and recommend fallback procedures and contingency arrangements in the event that the benchmark cannot be published, as well as any procedures for the cessation of the benchmark.
- BMR 5, 3(g)** 16. To monitor the input data and EMMI's actions in challenging or validating input data.

Regarding control framework, management and operation of the benchmark:

- BMR 5, 3(c)** 17. To oversee the benchmark determination process and ensure it remains transparent.
- BMR 5, 3(c)** 18. To oversee the administrator's control framework, management and operation of the benchmark.
- BMR 5, 3(e)** 19. To oversee third parties involved in the benchmark provision. In particular, to require the calculation agent to implement and operate under an appropriate control framework so that it fulfils its obligations under the Code of Obligations of Calculation Agent (COCA) as reflected in the contractual relationship with the Calculation Agent. To monitor adherence by the calculation agent to such a

framework, the Oversight Committee can request information from the calculation agent and will ensure confidentiality of all non-public data supplied.

- BMR 5, 3(f)**
20. To assess EMMI's internal and external audits related to the Efterm benchmark's governance and design, the integrity of its determination and its control framework and monitor the implementation of recommendations or remedial actions identified in those reviews.
 21. To address complaints following the escalation procedure described in the EMMI Complaints Policy.

3. Composition of the Efterm Oversight Committee

3.1. Composition

- RTS 5, 1.2
Annex 5, 1**
22. The Efterm Oversight Committee is composed of a balanced representation of stakeholders, including members directly or indirectly affiliated to supervised entities that use the index and other external stakeholders, such as market infrastructure operators, as well as independent experts.
- Annex 5, 1**
23. EMMI's CEO shall be an *ex-officio* member of the Efterm Oversight Committee with no voting rights. He/she may appoint a representative within EMMI's staff in case of absence.
- Annex 5, 1**
24. A representative of the Calculation Agent can be appointed as an observer of the Efterm Oversight Committee, but shall recuse him-/herself from any discussion regarding the performance of the Calculation Agent or any other topic that may lead to a conflict of interest.
- RTS 5, 1.5**
25. The Efterm Oversight Committee will consist of a minimum of three members. If the Efterm Oversight Committee is composed of less than three members, the Chairperson and EMMI's CEO will make best efforts to organize without undue delay the appointment or replacement of members to bring the composition of the Efterm Oversight Committee to three members.
- RTS 5, 1.6**
26. Representatives of the Board shall not be members but may be invited to attend meetings by the Chairperson as observers.
- RTS 5, 1.6
RTS 5, 3.1(c)**
27. The Chairperson of the Efterm Oversight Committee may permit one or more persons, including representatives of the Board, members of the EMMI staff and service providers, to join specific agenda items in meetings of the Efterm Oversight Committee as guests or observers on an ad hoc basis, to provide their expertise and technical input on specific topics. Guests or observers may be required to sign a declaration of interest and confidentiality agreements. Guest and observers shall not have voting capacities.

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- RTS 5, 3.1(e)** 28. The Chairperson of the Efterm Oversight Committee will be responsible for its overall direction and coordination and for acting as the contact point for the CEO, the Board and the competent authority for any issue related to the oversight function of the benchmark
- RTS 5, 3.1(k)** 29. The Chairperson has the responsibility of welding a group of capable individuals into an effective committee. He/she will be responsible for managing any disputes within.
- Annex I, 3(a)
RTS 5, 3.1(f)** 30. The list of members of the Efterm Oversight Committee will be publicly available, together with their individual biographies and their declarations of interests.

3.2. Suitability

- RTS 5,
1.3** 31. The Efterm Oversight Committee shall be composed of members that together have the skills and expertise appropriate to the oversight of the provision of Efterm and to the responsibilities the oversight function is required to fulfil.
- RTS 5, 3.1(b)** 32. The below list of necessary and desirable skills should be collegially met within the Efterm Oversight Committee:
- An appropriate knowledge of the underlying market or economic reality the benchmark seeks to measure;
 - Outstanding knowledge of the financial markets, in particular of the financial instruments using interest rate benchmarks;
 - Strong understanding of the consequences related to changes in benchmarks in terms of risk, impact and stakeholder behaviour in financial markets;
 - Outstanding knowledge of the functioning, composition, use, and technical aspects of financial indices used as benchmarks;
 - Good knowledge of regulatory requirements for financial benchmarks, in particular the EU BMR and IOSCO Principles.
- RTS 5, 3.1(b)** 33. The Chairperson of the Efterm Oversight Committee should possess (i) a high degree of expertise in the financial industry, (ii) proven records of integrity, professionalism and independence, and (iii) sufficient time to dedicate to his/her role.
- RTS 5, 3.1(b)** 34. All Efterm Oversight Committee members must be able to devote sufficient time to perform their role. When selecting candidates, the Board of Directors should assess the time necessary to properly exercising such mandate against the number of other mandates exercised by the candidates.
- RTS 5, 1.7** 35. Persons who have been subject to sanctions of administrative or criminal nature relating to financial services shall not be considered for Oversight Committee membership.
36. All Efterm Oversight Committee members should receive induction on joining the Oversight Committee. Training sessions shall be organized on an *ad-hoc* basis.

3.3. Appointment and Revocation Rules

- Annex I, 3(a)** 37. This section describes the rules and procedure for nomination or removal and replacement of Efterm Oversight Committee members.
- RTS 5, 3.1(d)**
38. The selection of potential Efterm Oversight Committee candidates falls under the competence of the CEO and the Efterm Oversight Committee Chairperson, who shall submit a list of nominations to the Board.
39. The appointment or revocation of Efterm Oversight Committee members and Chairperson falls under exclusive competence of the Board and requires a majority of two-thirds of the votes.
40. The Chairperson and all other members of the Efterm Oversight Committee are appointed for a four-year mandate, which can be renewed only once. This shall not apply to the CEO as *ex officio* member and the Calculation Agent representative as observer.
- RTS 5, 3.1(b)** 41. Before any appointment, the Board shall evaluate the expertise and skills of the candidates to Efterm Oversight Committee membership. This evaluation shall include an assessment of the candidates' profile against the criteria defined in Section 4, taking into consideration, for example, their availability due to their membership to other oversight functions. For that purpose, candidates will be required to fill in a due diligence questionnaire to demonstrate their skills, expertise, and time commitment.
- RTS 5, 3.1(d)** 42. The Board may revoke any members for the following reasons:
- The relevant supervisory or regulatory authority requests the members' removal;
 - The member was appointed as a representative of an organisation (e.g., benchmark submitter, benchmark user or other) and is no longer employed by such;
 - The member notifies his/her decision to resign from the Efterm Oversight Committee;
 - The member is incapable of performing the duties of his/her position in account of physical or mental incapacity;
 - The member does not attend more than two consecutive meetings (either physical or by conference call).
- RTS 5, 3.1(d)** 43. If a membership is revoked, or a person ceases to be a member for any other reason before the expiry of his/her mandate, another member may be appointed by the Board.

3.4. Confidentiality

- RTS 5, 3.1(n)** 44. Members of the Efterm Oversight Committee shall act in accordance with the EMMI Confidentiality Policy.

- RTS 5, 3.1(n) 45. Members of the Efterm Oversight Committee shall declare adherence to the EMMI Confidentiality Policy at least on an annual basis.

3.5. Conflicts of Interest

- RTS 5, 1.2 46. Each of the Efterm Oversight Committee members should demonstrate high standards of integrity and ethics, and be free of any relationship that, in the opinion of the Board or of the Conflict of Interest Oversight Committee, would interfere with their individual exercise of independent judgment.
- RTS 5, 1.5 47. To mitigate any potential conflicts of interest, all members are appointed on a personal basis must be independent and must not be subject to instructions from the companies or organisations to which they belong. Accordingly, each member of the Oversight Committee must submit and sign a declaration of interests whereby members shall declare any relevant interests.
- RTS 5, 3.1(h) 48. At the beginning of each meeting of the Efterm Oversight Committee, the Chairperson shall invite each member to consider the items set at the agenda and to consequentially disclose any particular interest they hold in relation thereto. Each particular interest so disclosed should be minuted and members with conflicting interest are personally responsible to recuse themselves from the discussion, deliberation and voting.
- RTS 5, 3.1(g) 49. Voting rights of members for decisions that would have a direct business impact on the organisations they represent may be suspended, either through members' recusal from a decision-making process, from a decision of the Chairperson of the Efterm Oversight Committee or upon recommendation of the Conflicts of Interest Oversight Committee.
- RTS 5, 3.1(i) 50. Similarly, members may be excluded from specific discussions in respect of which they have a conflict of interest either through members' recusal from the discussions, from a decision of the Chairperson of the Efterm Oversight Committee or upon recommendation of the Conflicts of Interest Oversight Committee. The exclusion from discussion shall be recorded in the minutes of the meeting.
51. Each member of the Efterm Oversight Committee shall commit to act in accordance with the EMMI Conflicts of Interest Policy.

4. Functioning of the Efterm Oversight Committee

4.1. Meetings

- Annex I, 3(b)
RTS 5, 3.1(a) 52. Meetings of the Efterm Oversight Committees are called by the Chairperson, at least on a semi-annual basis, and are attended in person or by electronic means (e.g. teleconference and/or video conference).
- Annex I, 3(b)

- RTS 5, 3.1(a)**
- 53. The Oversight Committee promptly publishes the minutes of its meetings on EMMI's website after approval by its Chairperson and members.
 - 54. The Secretariat to the Oversight Committee is provided by EMMI.

4.2. Decisions and votes

- RTS 5, 1.5**
- 55. The Eferm Oversight Committee cannot deliberate and execute its responsibilities, tasks, and rights unless at least half of its members are present.
 - 56. Each voting member of the Eferm Oversight Committee has one vote. Decisions will be taken by a simple majority of votes of the members present at meetings. In case of a tie vote, the Chairperson has a casting vote.
 - 57. Abstention votes are computed for the quorum but not for majority threshold.
 - 58. If the quorum and/or the majority of the votes cannot be obtained at a first meeting, a second meeting may be convened at the request of at least two members of the Eferm Oversight Committee. This shall be organized within two weeks after the first meeting, so that a final decision may be taken.
 - 59. Any member of the Eferm Oversight Committee who is prevented from attending an Eferm Oversight Committee meeting (physically or by conference call) may arrange to be represented by another Eferm Oversight Committee member, to whom he/she shall give a written proxy, by fax or email. Each member of the Eferm Oversight Committee shall however not have more than one proxy. The number of votes in favour, against and abstentions shall be systematically recorded in the minutes of the meetings.
 - 60. In exceptional circumstances, and whenever urgency and Eferm's interests so justify, the Eferm Oversight Committee may resolve in writing. For a written resolution to be valid, votes must be clearly expressed and decisions taken by a simple majority, unless specified otherwise in these Terms of Reference.

4.3. Information sharing with the Board of Directors

- RTS 5, 3.1(a)**
- 61. The minutes of Eferm Oversight Committee meetings shall be shared with the Board of Directors promptly after the meeting.
- RTS 5, 3.1(a)**
- 62. Notwithstanding paragraph 26, members of the Board shall be invited to attend Eferm Oversight Committee meetings following a rotation system. The member of the Board attending a meeting shall report to the Board at their following meeting.
- RTS 5, 3.1(a)**
- 63. The Chairperson of the Eferm Oversight Committee shall be invited by to Board for a general discussion on the functioning of the Eferm Oversight Committee at least on an annual basis.

4.4. Reporting responsibilities

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| RTS 5, 3.1(a) | 64. The Chairperson of the Efterm Oversight Committee shall present a report to the Board on its activities on an annual basis. |
| BMR 5, 3(i)
RTS 5, 3.1(m) | 65. The Efterm Oversight Committee shall report to the relevant competent authority any misconduct by the Calculation Agent, or EMMI, of which the Oversight Committee becomes aware, and any anomalous or suspicious data. |

4.5. Self-assessment

66. The Efterm Oversight Committee shall, at least every two years, review its own performance, constitution and Terms of Reference. It shall evaluate if it is operating at maximum effectiveness and recommend for approval, by the Board, any changes it deems necessary or that may be required by laws and regulations.
67. Reviews will, among others, address the general functioning of the Efterm Oversight Committee, its competences, composition and size, individual and collective efficiency and effectiveness of activities, interactions with the CEO, the EMMI staff and the Board.
68. Reviews shall be performed, among others, by means of anonymized self-assessment questionnaires set by EMMI's Compliance Function and/or an independent reputable third-party appointed by the Board. The result of this assessment shall be discussed during a dedicated session of the Efterm Oversight Committee. Minutes will be drawn of the conclusions of this assessment, as well as of the measures taken in order to improve the functioning of the Efterm Oversight Committee, and subsequently shared with the Board.