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17 September 2012

Ms. Arlene McCarthy MEP
Vice Chair, Economic and Monetary Affairs Committee
Rapporteur on Market Abuse Regulation and Directive
European Parliament

Dear Ms. McCarthy,

CFA Institute appreciates the opportunity to respond to the public consultation on Market Manipulation: Lessons and Reform Post LIBOR / EURIBOR (the "Consultation").

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 110,000 members in 139 countries and territories, including 100,000 Chartered Financial Analyst® charterholders, and 136 member societies.

To inform regulatory reform initiatives associated with LIBOR, CFA Institute has surveyed its global membership. The survey was developed in conjunction with the CFA Society of the U.K. ("CFA UK").[1] CFA UK is part of the worldwide network of member societies of CFA Institute and represents the interests of approximately 10,000 investment professionals in the United Kingdom.

The survey, which is attached separately, addresses issues such as the methodology for the setting of LIBOR, the governance and supervision of LIBOR, and possible alternatives to LIBOR. Amongst other findings, the survey results indicate that a majority of CFA Institute members favour a calculation methodology based on actual transaction rates, regulatory oversight of LIBOR, and powers for regulators to pursue criminal sanctions in cases of LIBOR manipulation.

Please do not hesitate to contact us should you wish further elaboration of the findings.

Yours faithfully,

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[1] CFA UK serves society's best interests through the provision of education and training, the promotion of high professional and ethical standards and by informing policy-makers and the public about the investment profession.

EUROPEAN PARLIAMENT
COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

- PUBLIC CONSULTATION -

Questionnaire for the public consultation on

MARKET MANIPULATION: LESSONS AND REFORM POST LIBOR/EURIBOR

by ECON Vice President and Rapporteur – Arlene McCarthy MEP

This public consultation is organised in the context of the preparation of the ECON Committee reports by Arlene McCarthy MEP based on the Commission amended proposals of 25 July 2012 for a Regulation on insider dealing and market manipulation (market abuse) (COM(2012)421) and for a Directive on criminal sanctions for insider dealing and market manipulation (COM(2012)420).

Interested stakeholders are invited to respond to the questionnaire below. To facilitate the evaluation process, concise and informative responses are welcome.

Received contributions, together with the identity of the contributor, may be published on the European Parliament's website, unless contributors object to publication of their identity or parts of their responses. If contributors do not wish their identity or parts of their responses to be divulged, this should be clearly indicated and a non-confidential version should be submitted at the same time. In the absence of any indication of confidential elements, the ECON Secretariat will assume that the response contains none and that it can be published in its entirety.

Please send your answer to econ-secretariat@europarl.europa.eu by 17 September 2012 at 12.00.

IDENTITY OF THE CONTRIBUTOR

- **Name of the person and/or organisation responding to the questionnaire:** CFA Institute
- **Description of the main activities of the organisation:** Non-profit global professional association for investment professionals

Please indicate whether you object to the publication of the identity of the contributor:
☐ yes, I object **x** no, I do not object
If you object, an anonymous contribution may be published.

TOPIC 1: TACKLING THE CULTURE OF MANIPULATION

Q1: How widespread is the problem? Are there other financial instruments, markets and/or benchmarks vulnerable to potential manipulation?

Market manipulation of benchmarks extends beyond LIBOR and EURIBOR; any benchmark or index is potentially subject to manipulation. Commodities markets benchmarks are particularly vulnerable to manipulation. The issues related to LIBOR and EURIBOR are somewhat different, however, to the extent that the pricing underlying these interest rate benchmarks is the most opaque – specifically, the rates underlying LIBOR and EURIBOR are based on judgment and are not published.

What action should be taken to ensure these forms of market abuse are tackled?

Please see our comments to the questions below.

Q2: What action should be taken to ensure the integrity and quality of all benchmarks, financial instruments and markets?

a. **Do both benchmarks and those entities that input into the setting of the benchmark need to be regulated?**

70% of CFA Institute members surveyed on the reform of LIBOR believe that the LIBOR submission process should be a regulated activity. By extension, we believe that the entities that input into the setting of interest rate benchmarks such as LIBOR and EURIBOR should be regulated.

Regarding the benchmark itself, 55% of CFA Institute members (59% in Europe, Middle East and Africa) responded that administration of LIBOR should remain with industry bodies but should be subject to regulatory oversight. Accordingly, interest rate benchmarks such as LIBOR and EURIBOR should be subjected to regulatory oversight.

b. **Are traded rates as opposed to offered rates a better basis for input? Or should a 'hybrid' approach be adopted?**

We believe that actual transaction rates are a better basis for calculation of benchmarks such as LIBOR and EURIBOR. 56% of CFA Institute members responding to the survey said that the most appropriate methodology for the setting of LIBOR would be an average rate based on actual inter-bank transactions only; a further 32% thought that a hybrid methodology using actual and estimated rates would be appropriate—meaning that approximately 88% of members think that actual transaction rates should be used as at least part of the basis for LIBOR (and other similar interest rate benchmarks).

One possible drawback with actual transaction rates, however, is the illiquidity in parts of the interbank loan market. Approximately half of the respondents who said that only actual transaction rates should be used felt that some use of estimated rates would be acceptable if the underlying market was very illiquid. In summary, therefore, we believe that actual rates should be used wherever possible but in certain circumstances estimated rates could play a part in the setting of interest rate benchmarks.

c. **Should the posters of rates be granted anonymity? What would be the potential downside to such an approach? Would such a status add or diminish the integrity of prices?**

If the calculation of LIBOR/EURIBOR (or other similar benchmarks) is based on actual transactions, then we believe it would be reasonable for basic information on those underlying transactions to be published, including the rate transacted, the currency and time period, and the institutions concerned. Such publication would provide adequate post-trade transparency for investors and would enable a richer understanding of the market circumstances underlying the benchmark interest rate (itself an average based on these individual transactions). Such a post-trade disclosure mechanism would also enable regulators to oversee the benchmarks and conduct investigations where necessary.

d. **What kind of powers should regulators of the financial sector be given to set and introduce criminal sanctions for attempted or actual manipulation of benchmarks?**

An overwhelming majority of CFA Institute members surveyed – 82% – think that regulators should have powers to pursue criminal sanctions over instances of LIBOR manipulation.

TOPIC 2: ESTABLISHING INTEGRITY AND TRUST POST LIBOR/EURIBOR

Q3: What specific measures should be taken at European/Global level to improve investor confidence? How can cooperation between global regulators be improved?

How can legislators ensure continuity between existing contracts which rely on Libor/Euribor (some $500 trillion of contracts) and future contracts?

Investor confidence can best be improved by using actual transaction rates in the calculation of interest rate benchmarks where possible and by strengthening regulatory oversight of such interest rate benchmarks. At the international level, global framework of key principles or best practices should be developed for internationally used benchmarks, according to 89% of CFA Institute members surveyed. Accordingly we support the efforts of the International Organization of Securities Commissions (IOSCO) task force on financial market benchmarks to develop global policy guidance and principles for benchmark-related activities of relevance to market regulators.

With regards to continuity between existing contracts which rely on LIBOR/EURIBOR and future contracts, any transition away from LIBOR/EURIBOR should be introduced slowly so as to avoid possible systemic disruptions given the size of the markets that currently reference LIBOR/EURIBOR. Given the potential for disruption, the immediate focus of policymakers should be to improve the current process and framework for LIBOR and EURIBOR before considering the necessity of transitioning away from these existing benchmarks.

Q4: What specific measures could be taken to enhance transparency and information quality in the financial sector?

Transparency and information quality in general could be improved through more standardized data and greater consistency in information reporting among financial institutions. There are various international initiatives underway to improve the quality and consistency of data reported to the market and to regulators, which we support.

Q5: What future action could be taken to achieve better governance in order to prevent future manipulation and establish integrity, trust and fairness in the financial services industry?

We have no further comments.

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE.