



# Efterm<sup>®</sup> Governance Code of Conduct

Efterm<sup>®</sup> Governance Framework



The European  
Money Markets  
Institute

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## Document Information

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## History

Version	Date Applicable	Summary of Changes
v1	14-11-2022	Original version
v2	30-11-2023	Updated EMMI's Transparency commitments to remove references to Policies EMMI is not obligated to publish
v3	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 Eferm, 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 Eferm Governance Framework, e.g.

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

*Annex 1                              Reference to Annex 1 on interest rate benchmarks 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

1. The European Money Markets Institute (EMMI) as a Benchmark Administrator, has the responsibility to define and implement robust governance and control arrangements to ensure Eferm's integrity and reliability.
2. EMMI has adopted a Governance Framework to establish the requirements and principles related to the provision of the Eferm benchmark. The Eferm Governance Framework consists in the following components:
  - a. This Eferm **Governance Code of Conduct (GCC)**, which sets out the governance, control and accountability frameworks established by EMMI for the provision of Eferm.
  - b. The Eferm **Code of Obligations of Calculation Agent (COCA)**, which sets out the requirements for the Calculation Agent in acting as an agent of EMMI for the determination of Eferm and which are reflected in the contractual arrangement with the Calculation Agent.
  - c. The **Benchmark Determination Methodology for Eferm (BDM)**, which sets out the determination methodology for the calculation of Eferm under both regular and contingency circumstances.

The Eferm Governance Framework is supported by a set of policies and procedures covering all aspects of the provision of the benchmark.

3. The GCC is based on the EU BMR Title II Chapter 1 ('Governance and control by administrators').
4. The GCC has been adopted on **27 September 2022** by EMMI's Board of Directors (hereinafter, the Board). It shall be reviewed if and when appropriate, at least every two years.
5. The standards set forth in the GCC are additional to and do not supersede any relevant legislation, regulation or other regulatory guidance applicable to EMMI. EMMI and the competent supervisory authorities should be notified of any potential inconsistencies between the GCC and such legislation or regulation.

## 3. Authorities and responsibilities

6. The **General Assembly and the Board** are the governing bodies of EMMI. The **Board** approves the components of the Eferm Governance Framework, and changes thereto, based on the recommendation of the Eferm Oversight Committee.
7. The **Eferm Oversight Committee** (hereinafter, the Oversight Committee) is an independent committee composed of a balanced representation of stakeholders, which exercises an independent oversight over all aspects of the provision of Eferm, including governance and methodological aspects.
8. The **Conflicts of Interest Oversight Committee** (the CIOC), as an advisory committee to the Board, monitors potential situations of conflicts of interest. The CIOC monitors the effectiveness of EMMI's Conflicts of Interest Policy and the procedures to identify, manage

and mitigate conflicts of interest situations, by providing recommendations to the Board and, as applicable, to the Oversight Committee.

9. The **Audit & Risk Committee** (the ARC) is a sub-Committee to the Board and provides, among other duties, oversight over EMMI's overall risk management governance structures and risk management program, as well as over quality and integrity of EMMI's auditing processes.

## 4. Governance and control framework

### 4.1. Governance and Conflicts of Interest

- BMR 4 10. EMMI has in place robust governance arrangements, which include a clear organisational structure with well-defined and clearly identified roles and responsibilities for all persons involved in the provision of Efterm.
- BMR 4 11. EMMI has adopted a Confidentiality Policy to ensure the confidentiality of the data provided as contributions to the determination of benchmarks. The Confidentiality Policy establishes a framework designed to ensure that appropriate controls are implemented over data collection and transmission processes. It is applicable to all employees and temporary personnel resources of EMMI as well as members of EMMI's governance structure, including members of oversight committees, members of task forces, external consultants and other working groups.
- BMR 4 12. EMMI has in place a Conflicts of Interest Policy (the CIP), applicable to the different parties involved in the benchmark provision process, including the Calculation Agent, EMMI as well as members of the Oversight Committee and other governing bodies.
- BMR 4 13. EMMI's employees and members of EMMI's governing bodies, including Efterm Oversight Committee, are required to sign a declaration of interest on an annual basis. Declarations of interest of members of the Efterm Oversight Committee are published on EMMI's website.
- BMR 4 14. The Conflicts of Interest Policy contains measures for the identification, avoidance or management, of conflicts of interest and their disclosure and monitoring, as appropriate.
- BMR 4 15. The Conflicts of Interest Policy establishes procedures to identify and manage potential conflicts of interest situations to which the Oversight Committee and the Calculation Agent may be a party, including those:  
a) within the Oversight Committee; or  
b) between the Administrator and the Calculation Agent.
- BMR 4 16. The Board has established an independent Conflicts of Interest Oversight Committee (the CIOC) that monitors the effectiveness of EMMI's Conflicts of Interest Policy and any relevant procedures to identify, manage and mitigate conflicts of interest situations, by providing recommendations to the Board and, as applicable, to the relevant Oversight Committees. The Terms of Reference of the CIOC are included in the Conflicts of Interest Policy.

BMR 4	17	The CIOC publishes a report on its activities on EMMI's website on an annual basis.
BMR 4	18	Requirements to address conflicts of interests for the Calculation Agent are defined in the COCA.

## 4.2. Oversight Function

BMR 5	19	EMMI has established and maintains a permanent and effective oversight function – the Efterm Oversight Committee – that exercises an independent oversight of all aspects of the provision of the Efterm including governance and methodological aspects.
BMR 5	20	The procedures and governance arrangements related to the composition, duties and functioning of the Efterm Oversight Committee are established in the Efterm Oversight Committee Terms of Reference.

## 4.3. Control Framework

BMR 6	21	EMMI has in place a control framework for the provision of Efterm, with the objective of ensuring its compliance with regulatory standards and maintaining the integrity and quality of the benchmark.
BMR 6	22	This Control Framework includes (a) management of operational risk, (b) adequate and effective business continuity and disaster recovery plans and (c) contingency procedures in the event of a disruption in the process of the provision of Efterm.
BMR 6	23	EMMI has in place a comprehensive Risk Management Framework aimed at maintaining robust benchmark operations, financial resources, and reputation for prudent conduct. It also aims at effectively identifying, managing, and mitigating its current and emerging risk exposures.
BMR 6	24	The Board has established an Audit & Risk Committee (ARC) to provide, among other duties, oversight over EMMI's overall risk management governance structures and risk management program, as well as over quality and integrity of EMMI's auditing processes.
BMR 6	25	In this context, the Efterm Oversight Committee, as part of its mission to enforce and oversee the implementation of the Efterm Governance Framework, oversees the management of risks related to the benchmarks administration, calculation, and publication and the implementation of associated mitigating actions. In conjunction with EMMI, the Efterm Oversight Committee can recommend risk management matters for consideration to the Board.
BMR 6	26	EMMI has developed a Business Continuity and Disaster Recovery Plan (BCP/DRP) to ensure that EMMI services and operations can be maintained or recovered in a timely manner in the event of a disruption.
BMR 6	27	EMMI also ensures that third parties involved in the provision of the benchmark have a business continuity and disaster recovery plan in place in order to avoid any disruption in the daily calculation and dissemination of the benchmark.

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BMR 6	28	EMMI adopted fallback arrangements under contingency circumstances. The determination methodology under contingency circumstances is defined in the BDM.
BMR 6	29	The Efterm Oversight Committee oversees that control measures to assess the quality and performance of Efterm are undertaken. To carry out the necessary controls (including consistency and plausibility checks before and after publication) EMMI can request information from the Calculation Agent, while ensuring confidentiality of all non-public data supplied.
BMR 10 RTS 34, 7	30	EMMI has put into place policies and procedures regarding the effective oversight of the outsourced Calculation Agent such as contracts, SLAs and the COCA.
	31	Control Framework requirements for the Calculation Agent are defined in the COCA and in the contractual relationship with the Calculation Agent.

## 4.4. Accountability Framework

BMR 7	32	EMMI has in place an accountability framework covering record-keeping, auditing and review, complaints and whistleblowing process, in compliance with applicable regulatory requirements.
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### 4.4.1. Record-keeping

BMR 8	33	EMMI has in place a Record-keeping Policy that establishes the guidelines governing the retention and appropriate deletion of records related to the administration of EMMI's benchmarks, with the aim to maintain an accessible audit trail for its activities and operations.
BMR 8	34	The Record-keeping Policy defines the retention requirements applicable to EMMI with regards to records related to the administration of EMMI Benchmarks.
BMR 8	35	Record-keeping Obligations for the Calculation Agent are defined in the COCA and in the contractual relationship with the Calculation Agent.

### 4.4.2. Audit and review

BMR 7	36	EMMI has in place internal reviews and audit arrangements to provide assurance on the effectiveness of the controls in place, taking into consideration EMMI's responsibility as benchmark administrator and its core processes and procedures.
BMR 7	37	The Efterm Oversight Committee and the ARC review EMMI's internal and external audits related to the Efterm governance and design, the integrity of the benchmark determination and/or the Efterm control framework, and monitor the implementation of recommendations or remedial actions.
BMR 7	38	Upon request, EMMI will provide the details of the reviews and audit reports referred to in article 36 to its competent authority.
BMR 7	39	Upon request of its competent authority or any benchmark user, EMMI will publish the details of the audit reports referred to in article 36.



40 Audit requirements for the Calculation Agent are defined in the COCA and in the contractual relationship with the Calculation Agent.

### 4.4.3. Complaints and Whistleblowing

BMR 9 41 EMMI has in place a Complaints Policy which define the procedures for receiving, investigating and retaining records concerning complaints made in relation to EMMI's benchmarks provision process.

BMR 9 42 The Complaints Policy:

- a) Permits complaints to be submitted through an electronic submission process, available on EMMI's website;
- b) Contains procedures for: i) receiving and investigating a complaint made about EMMI's benchmarks provision on a timely and fair basis by personnel who are independent of any personnel who may be or may have been involved in the subject of the complaint; ii) advising the complainant and other relevant parties of the outcome of its investigation within a reasonable period; and iii) retaining all records concerning complaints;
- c) Contains a process for managing complaints, including an escalation process to the relevant Oversight Committees of those that are not resolved. Depending on the nature of the complaints and the potential breaches, the Oversight Committee may escalate the issue to the Board or to competent legal or regulatory authorities, as appropriate; and
- d) Requires all documents relating to a complaint, including those submitted by the complainant as well as EMMI's own record, to be retained for a minimum of five years.

BMR 9 43 EMMI has in place a Whistleblowing Policy in order to permit any individual to alert EMMI, on an anonymous basis if necessary, on potentially suspicious or manipulative activity, or other issues that may affect the integrity of EMMI's benchmarks.

44 The Whistleblowing Policy:

- a) Permits reporting through an electronic submission process available on EMMI's website, on an anonymous basis if necessary, of potentially suspicious input data or manipulative activity, conflicts of interest situations, misconduct by contributor, or other issues that may affect the integrity of the EMMI's benchmarks to the respective Oversight Committee and, depending on the issue and the seriousness of the potential breach, to competent legal or regulatory authorities;
- b) Ensures appropriate protection (including of personal data) for persons who report potential or actual breaches and for the accused party; and
- c) Ensures the right of the accused party to a hearing by the Oversight Committee before the adoption of a decision concerning the party.

45 Complaints and Whistleblowing requirements for the Calculation Agent are defined in the COCA and in the contractual relationship with the Calculation Agent.

## 5. Transparency

46 EMMI seeks to publish all relevant information related to Eferm governance and benchmark provision processes, including but not limited to:

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- a) The components of the Eferm Governance Framework, i.e. the Eferm Governance Code of Conduct, the Eferm Code of Obligations of Calculation Agent and the Benchmark Determination Methodology for Eferm;
- b) Eferm Oversight Committee Terms of Reference, composition and minutes;
- c) The names, biographies and declarations of interest of Eferm Oversight Committee members;
- d) The list of Trading Venues contributing data to Eferm and, when applicable, any changes in this list;
- e) The procedures for consulting on any proposed material change in the benchmark methodology and the rationale for such changes, including a definition of what constitutes a material change to Eferm and the circumstances in which EMMI should notify users, as specified in the Benchmarks Consultation Policy;
- f) Benchmarks Change and Cessation Policy;
- g) Conflicts of Interest Policy
- h) The annual report from the Conflicts of Interest Oversight Committee.