



Financial Conduct Authority
25 The North Colonnade,
Canary Wharf,
London E14 5HS

Via email to: cp14-32@fca.org.uk

30th January, 2015

Dear Sir/Madam

CP14-32 Bringing Additional Benchmarks into the Regulatory and Supervisory Regime

The London Bullion Market Association (LBMA) welcomes the opportunity to submit this letter in response to the FCA's consultation paper CP14-32 "Bringing Additional Benchmarks into the Regulatory and Supervisory Regime".

About the London Bullion Market Association

The LBMA is the international trade association that represents the market for gold and silver bullion, which is centred in London but has a global client base, including the majority of the central banks that hold gold, private sector investors, mining companies, producers, refiners and fabricators. The current membership includes 144 companies which are either actively involved in the loco London bullion market or which provide services to the market, such as supervising and assaying. The LBMA's wholly owned subsidiary Precious Metals Pricing Ltd (PMPL) holds the intellectual property rights for the London gold, silver, platinum & palladium spot prices.

Definitions

Our members are primarily concerned with the lack of clarity on whether under the legislation the new LBMA Gold Price is firstly a submission based process or not, and secondly will the LBMA Gold Price have submitters or non-submitters. We would welcome clarity over what is a non-submission, and definition of non-submitter, to help determine the status of the participants to the LBMA Gold Price. The consultation highlights in paragraph 1.11 that the "definition of submission would include data or information made available to the administrator but that was not necessarily used. So for example, bids and offers or counterparty names in an auction process and discarded data from an electronic platform would be considered part of a submission." This causes confusion, as it is not clear then what a non-submission based process would include. On a call with the FCA on 27th January, the FCA mentioned that the purpose of the trades will be the key factor in determining whether it is a submission or not. However, there is no mention of 'purpose' in the consultation and we would welcome some guidance from the FCA on this.

Additionally, in paragraph 3.2, the FCA concluded that the current Gold Fixing has submitters. However, it is not clear how the FCA came to that conclusion and what factors they considered. Our view is that the Gold Fixing is similar to the LBMA Silver Price, which does not have submitters. The major difference is that the LBMA Silver Price auction now takes place on a public electronic auction platform with an independent administrator. The forthcoming new LBMA Gold Price will also be on a public electronic auction platform, where participants will put in live bids and offers, and once a balance is reached (within a specific tolerance level) then the price is said to have been discovered. Given the similarities between the LBMA Silver Price and the LBMA Gold Price, these two price mechanisms should be regulated in the same manner.

The London Bullion Market Association

1-2 Royal Exchange Buildings London EC3V 3LF

Tel: +44 20 7796 3067 Fax: +44 20 7283 0030 www.lbma.org.uk mail@lbma.org.uk

Authorisations

Furthermore, we welcome the proposal highlighted in section 3.16 and 3.17 of the consultation paper. Under these sections, market users who are solely transmitting orders into the benchmark should not require new authorisation or registration requirements under the FCA and that MAR should not apply to them directly. However, we would also like to clarify that MAR should not apply to firms whose sole involvement in benchmarks is to contribute to the LBMA Gold Price or LBMA Silver Price, which will encourage further participants to join.

Further Guidance for Non-Submitters

The LBMA proposes that the Administrator's oversight of the benchmarks should be sufficient control for non-submitters and we understand that it is the role of the administrator to monitor and undertake surveillance over the benchmark submissions as set out in MAR 8.3.6 and 8.3.7. The systems and controls that the Administrator puts in place for non-submitters, namely, the criteria that must be met to participate, the contractual framework, for example the rulebook, participants agreement and code of conduct, should provide appropriate controls to maintain the integrity of these non-submission based benchmarks. However, further clarity is required on the perimeter guidance for benchmarks that do not have submitters.

Foreign Exchange Providers – Non-Submitters

Once the USD price for silver is found, currently foreign exchange reference rates are provided by the administrator in order to have Euro & Sterling silver reference rates. The Administrator is responsible for sourcing this and it should not be seen under the regulation as a "submission" to the benchmark. Both gold & silver are currently working to make these foreign exchange prices more IOSCO compliant and therefore tradeable by engaging and managing foreign exchange providers. This IOSCO compliance cannot be achieved if foreign exchange providers are defined as "submitters".

Implementation & FCA Final Rules Timing

In order for the new LBMA Gold Price to be successfully launched, participants urgently need clarity that they will be regulated in the same way as the LBMA Silver Price, as a benchmark without submitters. Without clear guidance from the FCA now and forthcoming final rules, participants will be unable to gain internal approval to take part in the new process. The current Gold Fixing Company is not able to continue beyond 31st March under the new regulatory regime. The new IBA administrator can only administrate the new electronic process, which must have a significant number of participants in order for the price to reflect the Loco London Market. If a significant number of participants cannot get approval to take part due to lack of regulatory clarity, there will be a disruption to the Loco London Gold Market. Given the importance of this market, we politely ask for this issue to be urgently clarified.

Further information

Finally, if we can be of further assistance to the FCA with regard to the LBMA Gold & Silver Prices or the bullion market generally, we would be pleased to respond to any questions or requests that you may have.

Yours sincerely



Ruth Crowell
Chief Executive