

# NoRe

Norske Finansielle Referanser AS  
Norwegian Financial Reference Rates

## Nibor Panel Bank Code of Conduct

Version 1.3 – 03.11.2021

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## **Nibor Panel Bank Code of Conduct**

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### **1. Purpose**

#### **1.1. Consistent behaviour**

The Purpose of this Code of Conduct is to ensure consistent behaviour by Panel Banks in respect to their provision of input data as regards the quality, accuracy and quantity required by the methodology used to determine Nibor, the Benchmark covered by this Code of Conduct.

#### **1.2. Proportionality**

As Administrator, Norske Finansielle Referanser AS (NoRe), has taken into consideration the nature, scale and complexity of the activities of the Panel Banks, including that Panel Banks are supervised entities; whether conflict of interest may rise between the contribution to the Benchmarks and trading or other activities performed by the Panel Banks; and the level of discretion involved in the process of contribution.

#### **1.3. Alignment with EU Benchmark Regulation (BMR)**

This Code of Conduct is aligned with Regulation (EU) 2016/1011 of the European Parliament (BMR), including any delegated or implementing acts, regulatory or implementing technical standards, rules, requirements, guidelines and policies relating to the aforesaid regulation, as at the date of this conduct. [As the Benchmark Regulation may be amended or replaced from time to time, this Code of Conduct is subject to change as set out in clause 1.4]. As the Benchmark is based on input data from Panel Banks NoRe has developed this Code of Conduct to clearly specify Panel Banks' responsibilities with respect to their contribution of input data.

#### **1.4. Subject to Change**

This Code of Conduct may be subject to change by NoRe on 30 days notice to the Panel Banks. NoRe shall amend and/or supplement the Code of Conduct at any time to ensure that it continues to comply with applicable regulatory requirements within 30 days of a notification from competent authorities (ref. BMR article 40). Panel Banks shall ensure that appropriate changes are made to their policies and procedures within this timeframe or as otherwise advised by NoRe. Changes which are unrelated to either applicable regulatory requirements or requirements by competent authorities will be implemented by NoRe following the 90 days' notice to the Panel Banks.

## 1.5. Nibor Benchmark Status

Nibor (Norwegian Interbank Offered Rate) is a collective term for Norwegian money market rates with maturities of one week, one month, two months, three months and six months. Nibor is intended to reflect the interest rate lenders require for unsecured money market lending in NOK to a leading bank with delivery two days after the trade date.

Nibor is an interest rate benchmark, ref. BMR Article 18.

Furthermore, Nibor has been recognised as a critical benchmark and added to the list of critical benchmarks<sup>1</sup> established by the EU Commission pursuant to the EU Benchmark Regulation (BMR).

Panel Banks must be aware of that an enhanced regulatory regime applies to critical benchmarks under BMR. In particular, BMR Article 23 empowers the competent authority of the administrator to require contributors to continue contributing input data for an appropriate period of time, if the contributor intends to cease contributing input data or in connection to a decision to cease the benchmark.

The assessment of the criticality of a benchmark shall be reviewed by the competent authority at least every two years.

## 1.6. Binding Agreement

A Panel Bank shall become bound by this Code of Conduct upon its accession to this Code of Conduct by executing and delivering to NoRe a 'Declaration of Accession' substantially in a form provided by NoRe.

Each Panel Bank shall certify their compliance with the provisions of this Code of Conduct by executing and delivering to NoRe a 'Declaration of Compliance' substantially in a form provided by NoRe, upon acceding to this Code of Conduct. Each Panel Bank shall repeat this declaration annually and at each time NoRe instructs the Panel Banks to do so following any material update to the Code of Conduct.

## 1.7. Requirements for Acceptance on Panel

A Panel Bank is required to be a supervised entity and active in the market in which the redistribution of NOK liquidity takes place – in the relevant maturities and throughout the market's trading hours – and has been such for a period of at least three months.

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<sup>1</sup> COMMISSION IMPLEMENTING REGULATION (EU) 2021/1122 of 8 July 2021 amending Implementing Regulation (EU) 2016/1368 adding the Norwegian Interbank Offered Rate to and removing the London Interbank Offered Rate from the list of critical benchmarks used in financial markets established pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council

In addition, Nibor Panel bank shall quote committing sales prices on Certificates of Deposits (CDs) or Commercial Papers (CPs) denominated in NOK, for the maturities 1, 2, 3 and 6 months. Minimum sales commitment is NOK 100 million for all maturities.

### **1.8. Assignment of the Status of Panel Bank<sup>2</sup>**

A written application for the status of Panel Bank shall be delivered to NoRe. The application shall include a declaration of the applicant's ability and willingness to satisfy the obligations applying to Panel Banks pursuant to this Code of Conduct.

NoRe shall decide on the assignment of the status of Panel Bank within 60 days of receipt of the application. The assignment of the status of Panel Bank shall be discretionary, however NoRe shall provide reasons for rejecting an application, in writing, within three working days of a decision being made.

NoRe shall notify the applicant of the decision in respect to the assignment of the status of Panel Bank within three working days of the decision being made. The decision shall include the date from which the Panel Bank shall start to submit Input Data to NoRe.

The assignment of the Panel Bank status including the date from when it shall start to submit Input Data for the Benchmarks calculation shall be announced by NoRe in writing to all other Panel Banks and the competent authority within three working days of the decision being made.

### **1.9. Withdrawal of the Status as Panel Bank**

NoRe may withdraw the status as Panel Bank:

- a) at the request of the Panel Bank;
- b) upon non-compliance by the Panel Bank with its obligations pursuant to this Code of Conduct;
- c) with immediate effect if the Panel Bank becomes subject to public administration or other insolvency proceedings.

If a Panel Bank intends to cease contributing input data, it shall promptly notify in writing NoRe with a request pursuant to Clause 1.9(a) at least three months in advance. The notification should include reason for the withdrawal. NoRe will after receipt of such a notification inform without delay the competent authorities, and within 14 days submit an assessment of the implications on the capability of the benchmark to measure the underlying market or economic reality.

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<sup>2</sup> Applies for new Panel Banks after 31.12.2019

As Nibor has been recognised as a critical benchmark pursuant to the EU Benchmark Regulation (BMR) Article 20, the competent authority of the administrator has the power to require the Panel Bank to continue contributing input data according to BMR Article 23. Mandatory contribution may be required for a period of up to 12 months, which may be extended to a period not exceeding five years in total.

The affected Panel Bank shall be notified in writing of the decision by NoRe within 60 days from the receipt of the request and within three working days of the decision being made. The decision shall become effective on the date stated in the notification to the affected Panel Bank and there shall be no right of appeal.

NoRe shall notify in writing other Panel Banks of a decision to withdraw the status of a Panel Bank within three working days of the decision being made. The notification shall include information about the effective date of the withdrawal.

## **2. Systems and Controls of Panel Banks**

### **2.1. Staff Training and Expertise**

#### **2.1.1. Panel Bank Training Programme**

Each Panel Bank shall have training programs to ensure that each submitter has:

- a) the necessary skills, knowledge, training and experience for the role, including adequate knowledge of all the elements of this Code of Conduct
- b) adequate knowledge of BMR and Regulation (EU) No 596/2014<sup>3</sup> relevant to the contribution of input data.

The knowledge of submitters referred to in points a) and b) above, shall be periodically re-assessed, at least annually, to verify that it is still appropriate that they act as submitters.

#### **2.1.2. Identification and Authorisation of Submitters**

Each Panel Bank shall ensure the identification of the persons that may contribute Input Data to NoRe on its behalf and that procedures are in place to verify the identity of its submitters, as well as authorisation of any submitters that contribute Input Data on behalf of a Panel Bank.

Each Panel Bank's submitter and the direct managers of that submitter shall acknowledge in writing that they have read this Code of Conduct and that they will comply with it.

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<sup>3</sup> REGULATION (EU) No 596/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC

Each Panel Bank shall require that a person can act as a submitter of Input Data on its behalf only when the Panel Bank is satisfied that the person has the necessary skills, knowledge, training and experience for the role.

Each Panel Bank will undertake an assessment, before being satisfied that a person has the necessary skills, knowledge, training and experience to submit Input Data on its behalf. This process shall include undertaking checks to verify:

- the identity of the potential submitter;
- the qualifications of the potential submitter; and
- the reputation of the potential submitter and their suitability to the role.

#### 2.1.3. Notification of Authorised Submitters to Nibor

Each Panel Bank shall notify the identity of any individual authorised to submit Input Data on its behalf to NoRe. Each Panel Bank shall use a form provided by NoRe for this purpose, which will be signed by a listed authority employee within the Panel Bank. Each Panel Bank shall deliver the completed form to NoRe via electronic mail to [post@referanserenter.no](mailto:post@referanserenter.no). On receipt of this form, NoRe will confirm directly to the Panel Bank as to the details contained in the form for security purposes.

### 3. Input Data Requirements

#### 3.1. Description of Input Data for Nibor

Panel Banks are to provide Input Data to NoRe, as follows:

- a) The interest rates submitted by an individual panel bank shall reflect the interest rates the bank would charge on lending in NOK to a leading bank with delivery (value date) two banking days after the trade date, calculated as annual nominal interest rates over 360 days, as is standard in the foreign exchange market. Leading bank is defined as a bank with a high credit rating for short-term debt which is active in the Norwegian money and foreign exchange market on competitive terms.
- b) Input Data shall contain quotes for the 1 week, 1 month, 2 months, 3 months and 6 months tenors.
- c) Input Data shall take-into account the requirements as specified in Clause 3.3.



- d) Each tenor rate shall be a positive or negative number to 2 decimal places, or zero.
- e) Input Data shall be entered into the NoRe Calculating Agent system according to the Contribution Procedure User Guide.
- f) Input Data for all tenors shall be provided by Panel Banks each day on which banks are open for general business in Norway.
- g) Input Data shall be entered into the Nibor Calculating Agent's system after 11.00 CET/CEST (local time) and before 11.30 CET/CEST each day. Panel Banks may, exceptionally, alter their submissions at that time, but not later than 11.45 CET/CEST.

### **3.2. Internal Policies Ensuring Panel Bank Provides Relevant Input of Input Data**

A Panel Bank shall have in place policies to ensure that it provides all relevant Input Data. Each Panel Bank shall have an Input Data policy that includes at least a description of:

- a) the data to be taken-into account in determining the Input Data contribution;
- b) the data that a Panel Bank may exclude from a contribution of Input Data and any reason that might justify such an exclusion;
- c) a policy on the transmission of data to NoRe that includes at least:
  - I. a method to be used for the secure transfer of data;
  - II. contingency plans for submitting Input Data that address at least the following elements: technical and operational difficulties, the temporary absence of a submitter, and a lack of Input Data required by the methodology.

### **3.3. Priority of Use of Input Data**

The priority of use of input data shall be as follows:

- a) The Panel Banks's own interbank lending transactions concluded with a leading bank, ref. Clause 3.1 a), in the Norwegian Money Market with a minimum value of NOK 100 million at the same day as the fixing of Nibor and in the following order:
  - I. Volume Weighted Average Price (VWAP) of multiple transactions;
  - II. Single transactions.

Transactions with deviating value or maturity date may be valid for use if:

- I. Value date is no more than two banking days ahead.

- II. Deviation in maturity is within the range of 2 banking days for the one-week maturity and 5 banking days for the longer maturities.

Transactions are not valid for use if deviations imply value or maturity date in another calendar year or they for other reasons may be affected by circumstances that are not within the relevant Nibor term. Generally, if the shape of the yield curve indicates that it will be wrong to use transactions with deviating maturities then the data shall not be used.

If no valid interbank lending transactions have been concluded, the submissions should be made based on the following level b) criteria:

- b) The Panel Bank's own borrowing transactions concluded from sales of Certificates of Deposits (CDs) or Commercial Papers (CPs) denominated in NOK with a minimum value of NOK 100 million at the same day as the fixing of Nibor and in the following order:
  - I. Volume Weighted Average Price (VWAP) of multiple transactions;
  - II. Single transactions.

Transactions with deviating value or maturity date may be valid for use if:

- I. Value date is no more than two banking days ahead.
- II. Deviation in maturity is within the range of 2 banking days for the one-week maturity and 5 banking days for the longer maturities.

Transactions are not valid for use if deviations imply value or maturity date in another calendar year or they for other reasons may be affected by circumstances that are not within the relevant Nibor term. Generally, if the shape of the yield curve indicates that it will be wrong to use transactions with deviating maturities then the data shall not be used.

A spread is added to the calculated borrowing rate, so that the Input Data as best possible reflects the interest rates that the bank would charge for unsecured lending in NOK to a leading bank.

Input Data may be adjusted in accordance with Clause 3.4.

If no valid borrowing transactions have been concluded, the submissions should be made based on the following level c) criteria:

- c) The Panel Bank's committed price quotes on CDs or CPs denominated in NOK and expert judgements based on the bank's weighted funding costs in USD and EUR, preferable prices from actual transactions. With exception for the 1 week tenor, committed price quotes on CDs and CPs denominated in NOK shall be given at least 50 percent weight in the calculation of Input Data. The weights used for funding costs in USD and EUR shall reflect the shares of the bank's foreign money market financing that consists of liabilities denominated in USD and EUR respectively.

The NOK interest rates derived from funding costs in USD and EUR must be determined as the sum of the relevant foreign interest rate and the return derived from the difference between the spot rate and the forward rate – the forward premium (which may also be negative).

A spread is added to the calculated borrowing rate, so that the Input Data as best possible reflects the interest rates that the bank would charge for unsecured lending in NOK to a leading bank.

Input data may be adjusted in accordance with Clause 3.4.

### **3.4. Adjustments to Input Data**

Input data may be adjusted, to correctly reflect the Benchmark's definition and/or to broaden the valid transactions base, by application of the following criteria:

- a) Proximity of transactions to the time of provision of the input data and the impact of any market events between the time of the transactions and the time of provision of the Input Data.
- b) Interpolation from transaction data, between interest rates from transactions that have shorter and longer maturities than the relevant Nibor term calculated as a weighted average, with weights reflecting the relative distance between actual and Nibor term. Transactions are not valid for use in interpolation if value or maturity date is in another year or they for other reasons may be affected by circumstances that are not within the relevant Nibor term. Generally, if the shape of the yield curve indicates that it will be wrong to use interpolation then interpolation shall not be used.
- c) Adjustments to reflect changes in the credit standing of the Panel Banks and other market participants.

## **4. Contribution of Input Data**

Each Panel Bank shall have in place a control framework that ensures the integrity, accuracy and reliability of Input Data and that data is provided in accordance with BMR and this code of conduct.

### **4.1. Processes for Contributing Data**

Each Panel Bank shall keep and maintain a documented and effective process for contributing Input Data, which shall include:

- a) a process for the designation of submitters and procedures for making contributions when a submitter is unexpectedly unavailable, including the

designation of alternates; the data to be taken-into account in determining the Input Data contribution;

- b) procedures and systems for monitoring the data used for the contributions, which should be capable of producing alerts in line with predefined parameters.

#### **4.2. Ensuring Integrity and Reliability of Input Data**

A Panel Bank shall have in place effective systems and controls to ensure the integrity and reliability of all contributions of Input Data to NoRe, including:

- a) controls regarding who may submit Input Data to NoRe including a process for sign-off by a natural person holding a position senior to that of the submitter;
- b) measures for the management of Conflicts of Interest, including organisational separation of employees where appropriate and consideration of how to remove incentives, created by remuneration policies, to manipulate Nibor;
- c) record-keeping, for a minimum of five years, of communications in relation to provision of Input Data, of all information used to enable the Panel Bank to make each submission, and of all existing or potential Conflicts of Interest including, but not limited to, the Panel Bank's exposure to financial instruments which use Nibor;
- d) record-keeping of internal and external audits.

#### **4.3. Procedures for Contributing Input data**

Each Panel Bank should have procedures for contributing Input Data, including requirements for the Panel Bank to specify whether Input Data is transaction data and whether Input Data conforms to the requirements set out in this Code of Conduct.

##### **4.3.1 Use of Automated Systems to Contribute Input Data**

Where a Panel Bank uses an automated system for the contribution of Input Data, where submitters are not able to modify the contribution of Input Data, Panel Banks must ensure that they:

- I. are able to monitor the proper functioning of the automated system on a continuous basis; and
- II. check the automated system following any update or change to its software, before new Input Data is contributed.

#### 4.4. Ensuring Appropriate and Verifiable Input Data

Each Panel Bank will ensure the availability of all information necessary to check where applicable that:

- a) The submitter has been authorised to contribute input data on behalf of the Panel Bank;
- b) Input Data is provided by the Panel Bank or is selected from a source specified by NoRe within a time-period prescribed by NoRe;
- c) Input Data is provided by the Panel Bank in a format specified by NoRe;
- d) Input Data is contributed from the Input Data sources as per Clause 3.3 and in consideration of any necessary adjustments in accordance with Clause 3.4;
- e) the source of Input Data is reliable;
- f) the Input Data meets the requirements set out in the methodology in particular the requirements on the currency or the unit of measurement, the tenor, and the types of counterparties;
- g) relevant thresholds for the quantity of Input Data and standards for the quality of Input Data are met in accordance with the methodology;
- h) the priority of use of different types of input data are applied in accordance with the methodology;
- i) the exercise of any discretion or expert judgement in the contribution of Input Data is applied within the limits of the methodology and this Code of Conduct.

#### 4.5. Input Data from Front Office

Each Panel Bank shall ensure that it has the following procedures in place:

- a) an internal oversight procedure that describes:
  - I. the respective roles of the three levels of control functions set out below, as well as the means of cooperation and flow of information between them;
  - II. regular reporting of the operations of the three levels of control functions to the senior management of the Panel Bank;
  - III. communication to NoRe, upon request, of information requested by NoRe relating to the Panel Bank's internal oversight and verification procedures.

- b) a first level of control function that is responsible for:
- I. effective checking of Input Data prior to contribution in accordance with any requirement for the validation of Input Data to which it is subject;
  - II. the review of Input Data prior to contribution to check its integrity and accuracy;
  - III. checking that the submitter is authorised to contribute Input Data on behalf of the Panel Bank in accordance with any requirement;
  - IV. the restriction of contributed Input Data to persons involved in the contribution process, except where access is justified under the rules and procedures of the Panel Bank, such as for persons involved in audits related to the contribution of Input Data or persons involved in investigations relating to suspicious Input Data or errors;
- c) a second level of control function that is responsible for:
- I. the review of Input Data after contribution, that is independent from the first level control function, in relation to the integrity and accuracy of the contributions;
  - II. the maintenance of a whistleblowing procedure that includes appropriate safeguards for whistleblowers;
  - III. the maintenance of procedures for the internal reporting of any attempted or actual manipulation of Input Data and any failure to comply with the Panel Bank's Benchmark-related policies and procedures as well as for the investigation of such events as soon as they become apparent;
  - IV. the maintenance of internal reporting procedures for any operational problems in the contribution process, as soon as they arise;
  - V. appropriate oversight of communications between front office function staff directly involved in contributions and other internal functions or external bodies;
- d) a third level of control function that is independent from the first two levels of control and responsible for performing checks, on a regular basis on the controls exercised by the first two levels of control.

#### **4.6. Reporting Lines and Sign-off of Input Data**

Each panel bank will ensure that they have:

- a) an outline of responsibilities within the Panel Bank, including internal reporting lines and accountability, the location of submitters and managers and the names of relevant individuals and alternatives;
- b) Internal procedures for sign-off of contributions of Input Data;

#### **4.7. Validation Prior to Submission**

The Panel Bank should meet this Code of Conduct requirements for the validation of Input Data before it is provided to NoRe.

##### **4.7.1. Erroneous Input Data**

Each Panel Bank shall have procedures in place to address any errors discovered in the contributed Input Data.

Panel Banks will disclose any erroneous Input Data submitted during the determination process, as soon as it is discovered. Corrections to Input Data after the determination process has been completed, must be submitted according to Nibor Post Publication Re-determination policy.

#### **4.8. Suspicious Behaviour, Manipulation and Disciplinary Procedures**

##### **4.8.1. Identification of Suspicious Behaviour**

Each Panel Bank will ensure that it has a defined list of actions that would be considered suspicious, and the following procedures and rules are in place:

- a) effective procedures to prevent or control the exchange of information between persons engaged in activities involving a risk of conflict of interest where the exchange of that information may affect the Input Data contributed;
- b) rules to avoid collusion among Panel Banks, and between Panel Banks and NoRe;
- c) measures to prevent, or limit, any person from exercising inappropriate influence over the way in which persons involved in the provision of Input Data carries out those activities.

##### **4.8.2. Systems and Controls**

A Panel Bank must have in place systems and controls to provide for at least the following:

- a) pre-contribution checks to identify suspicious Input Data, including effective checking processes in the form of a review of the data by a second person, and unusual data values;

- b) post-contribution checks to verify the Input Data has been contributed in accordance with the requirements of this Code of Conduct and to identify suspicious Input Data;
- c) monitoring of the transfer of Input Data to NoRe in accordance with the applicable policies.

#### **4.9. Internal Reporting of Suspicious Input Data / Whistleblowing**

Each Panel Bank shall establish documented internal procedures that provide for its staff to report any suspicious Input Data to the Panel Bank's compliance function, if any, and to the Panel Bank's senior management.

The procedures shall include appropriate safeguards for whistle-blowers.

#### **4.10. Reverse Transactions**

A Panel Bank should have in place controls to identify reverse transaction subsequent to the provision of Input Data.

The Compliance function of the Panel Bank shall report any findings, including reverse transactions, to Panel Bank's management on a regular basis.

#### **4.11. Disciplinary Procedures**

Each Panel Bank will have in place disciplinary procedures in respect of attempts to manipulate, or any failure to report, actual or attempted manipulation by parties external to the contribution process.

#### **4.12. Notifications to NoRe Regarding Suspicious Behaviour and Breaches of Regulation (EU) 2016/1011 or this Code of Conduct**

Any attempts to manipulate the submission to the Benchmarks determination process, including breaches of the Panel Bank's own rules related to suspicious behaviour, must be immediately reported to NoRe using the Whistleblowing mechanism on the NoRe website. The Panel Bank will provide all relevant information regarding the nature of the suspicious behaviour.

A Panel Bank is required to report other detected breaches, including breaches of Regulation (EU) 2016/1011 or this Code of Conduct, or errors and the action taken as-a-consequence to NoRe within one month of the matter being detected.



#### 4.13. Policies on Use of Discretion

The Panel Bank should establish policies on the use of discretion that specify at least the following:

- a) the circumstances in which it may exercise discretion;
- b) the persons within the Panel Bank that are permitted to exercise discretion;
- c) any internal controls that govern the exercise of the Panel Bank's discretion in accordance with its policies;
- d) any persons within the Panel Bank that may evaluate ex-post the exercise of discretion.

#### 4.14. Contribution of Input Data Relying on Expert Judgement or Discretion

Where the contribution of Input Data relies on expert judgement, the Panel Bank shall establish policies guiding any use of judgement or exercise of discretion and shall retain records of the rationale for any such judgement or discretion. The policies shall include a framework for ensuring consistency between different submitters, and consistency over time.

#### 4.15. Periodic Reviews of Input Data and Procedures

Each Panel Bank will conduct regularly reviews, at least annually, of the input data and the procedures, systems and controls established in relation to the contribution of Input Data, and whenever there is a change in this Code of Conduct.

### 5. Management of Conflicts of Interest

Each Panel Bank shall ensure that the provision of input data is not affected by any existing or potential conflict of interest and that, where any discretion is required, it is independently and honestly exercised based on relevant information in accordance with this Code of Conduct.

#### 5.1. Conflict of Interest policy

Each Panel Bank shall have in place policies, systems and controls concerning the management of Conflicts of Interest that at least include:

- a) Conflicts of Interest Policy that addresses
  - I. the process of identifying and managing of conflict of interest, including any internal escalation of conflicts of interest;

- II. steps to prevent, or minimise the risk of, conflicts of interest in the process for recruiting submitters;
  - III. steps to prevent, or minimise the risk of, conflicts of interest in the remuneration policies for the contributor's staff;
  - IV. steps to prevent, or minimise the risk of, conflicts of interest arising from the contributor's management structure;
  - V. requirements with respect to communications between submitters and other staff within the contributor's organisation;
  - VI. Appropriate physical or operational separation between submitters and other staff of the contributor required to prevent, or minimise the risk of, conflict of interest;
  - VII. rules and measures to address any financial exposure that the contributor may have to a financial instrument or financial contract which references the benchmark to which the contributor contributes input data;
- b) a register of conflicts of interest to be used to record any conflicts of interest identified and any measures to manage them, together with requirements to keep the register up-to-date and to provide internal and external auditors with access to it.

The staff that are involved in the contribution process shall be trained in all policies, procedures and controls relating to the identification, prevention and management of Conflicts of Interest.

## **5.2. Maintenance Requirements on Conflicts of Interest Policy**

Each Panel Bank shall include in the establishment and ongoing maintenance of their Conflicts of Interest policy the following points:

- a) the identification and disclosure to NoRe of actual or potential Conflicts of Interest in relation to the Panel Bank's front office staff who are involved in the contribution process;
- b) the separation of the remuneration of a submitter from the value of Nibor, the specific values of the submissions made and any performance of an activity of the Panel Bank that might give rise to a conflict of interest related to the contribution to the Benchmarks;
- c) the removal of any direct link between the remuneration of employees involved in the provision of Input Data and the remuneration of, or revenues generated by,

- persons engaged in another activity, where a conflict of interest may arise in relation to those activities;
- d) a clear segregation of duties between front office staff involved in contributing Input Data and other front office staff;
  - e) a physical separation between front office staff involved in contributing Input Data and other front office staff;
  - f) effective procedures to control the exchange of information between front office staff and other staff of the Panel Bank involved in activities that may create a risk of Conflicts of Interest, where that information may affect the Input Data contributed;
  - g) contingency provisions in case of temporary disruption of the controls regarding the exchange of information referred to in point (f);
  - h) effective procedures and communication controls, both within their Panel Bank and between Panel Banks and other third parties, to avoid any inappropriate external influence over those responsible for submitting rates. Submitters shall work in locations appropriately physically separated from interest rate derivative traders;
  - i) measures to prevent any person from exercising inappropriate influence over the way in which front office staff involved in contributing Input Data carry out their activities.

## 6. Record Keeping Policies

Each Panel Bank should have adequate record-keeping policies and data will be kept on a medium that allows the storage of information to be accessible for future reference with a documented audit trail.

Each Panel Bank shall have in place record-keeping policies to provide that information be kept for a minimum of five years, or three years where the records are of telephone conversation or electronic communications, on a medium that allows the storage of information to be accessible for future reference.

Each Panel Bank shall keep a record of all relevant information necessary to check the Panel Bank's adherence to this Code of Conduct, including a record of at least the following information:

- a) policies and procedures governing the contribution of Input Data and any relevant changes therein;

- b) the register of Conflicts of Interest established;
- c) any disciplinary action taken against any of the Panel Bank's staff in respect of the benchmark(s) related activities;
- d) a list of submitters and persons performing checks in respect of contributions, including their names and roles within the Panel Bank, and the dates when the submission-related roles were authorised and exited;
- e) any interactions of submitters with NoRe and their appointed Calculation Agent;
- f) sensitivity reports for interest rate swap trading books and other derivative trading books with a significant exposure to interest rate fixings in respect of Input Data;
- g) any queries regarding the input of data and their outcome of those queries;
- h) any detection and management of breaches or errors with regard to Regulation (EU) 2016/1011 or this Code of Conduct and actions taken as a consequence.

Each Panel Bank shall keep detailed records of all relevant aspects of contributions of Input Data including:

1. all relevant aspects of contributions of Input Data;
2. the data taken-into account in determining the Input Data contribution, and any data that was excluded;
3. any use of discretion;
4. any input data checks undertaken by the contributor;
5. communications in relation to the contribution of Input Data between the submitter and any persons within the Panel Bank performing checks in respect of contributions;
6. the process governing Input Data determination and the sign-off of Input Data;
7. the names of submitters and their responsibilities;
8. any communications between the submitters and other persons, including internal and external traders and brokers, in relation to the determination or contribution of Input Data.

## **7. Requirement for Access by Competent Authority**

NoRe and the Panel Banks accept that in order to fulfil their duties under this Regulation, the competent authority shall have, in conformity with the national laws of Norway, the following supervisory and investigatory powers:

- a) access to any document and other data in any form, and to receive or take a copy thereof;

- b) require or demand information from any person involved in the provision of, and contribution to, Nibor, including any service provider to which functions, services or activities in the provision of the Benchmarks have been outsourced as well as their principals, and if necessary, summon and question any such person with a view to obtaining information;
- c) carry out on-site inspections or investigations, at sites other than the private residences of natural persons;
- d) enter premises of legal persons, in order to seize documents and other data in any form, where a reasonable suspicion exists that documents and other data related to the subject- matter of the inspection or investigation may be relevant to prove a breach of the Regulation. Where prior authorisation is needed from the judicial authority of Norway, in accordance with national law, such power shall only be used after having obtained that prior authorisation;
- e) require existing recordings of telephone conversations, electronic communications or other data traffic records held by a Panel Bank;
- f) request the freezing or sequestration of assets or both;
- g) require temporary cessation of any practice that the competent authority considers contrary to the Regulation;
- h) impose a temporary prohibition on the exercise of professional activity.

## **8. Requirement to Provide Information to NoRe**

Each Panel Bank, whose input data is submitted from a front office function, will provide information relating to the Panel Bank's internal oversight and Data Input verification procedures within a reasonable timeframe, on demand by NoRe.

Each Panel Bank shall fully cooperate with NoRe and the competent authority in the auditing and supervision of the provision of Nibor and make available the information and records kept in accordance with this Code of Conduct.

## **9. Audit Provisions**

An independent external audit of the Input Data of a Panel Bank to Nibor, compliance with this Code of Conduct and the provisions of the Regulation shall be carried out for the first time six months after the introduction of this Code of Conduct, and subsequently every two years.

The Nibor Oversight Committee may require an external audit of a Panel Bank if dissatisfied with any aspects of its conduct. The audit will be conducted within three months of such a request being made and the Panel Bank will provide all necessary assistance in regard to these enquiries.

## 10. Administrative details

Rules and procedures governing the calculation of Nibor are detailed in the document “Nibor Calculation Methodology”.

This document will be publicly available on the NoRe website.

## 11. Definitions

- 1) **‘administrator’** means Norske Finansielle Referanser AS (NoRe) incorporated in Norway.
- 2) **‘benchmark’** means any index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined, or an index that is used to measure the performance of an investment fund with the purpose of tracking the return of such index or of defining the asset allocation of a portfolio or of computing the performance fees.
- 3) **‘BMR’ or ‘The Regulation’** refers to 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 investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014.
- 4) **‘Competent Authority’** is Finanstilsynet - the Norwegian Financial Supervisory Authority (Norwegian FSA) - which is the body responsible for authorisation and ongoing supervision of the NoRe under BMR.
- 5) **‘contribution of Input Data’** means providing any Input Data not readily available to NoRe, or to another person for the purposes of passing to NoRe, that is required in connection with the determination of Nibor and is provided for that purpose.
- 6) **‘expert judgement’** means the exercise of discretion by NoRe or a Panel Bank with respect to the use of data in determining the Benchmarks, including extrapolating values from prior or related transactions, adjusting values for factors that might influence the quality of data such as market events or impairment of a buyer or seller’s credit quality, and weighting firm bids or offers greater than a particular concluded transaction.
- 7) **‘financial instrument’** means any of the instruments listed in Section C of Annex I to Directive 2014/65/EU for which a request for admission to trading on a trading venue, as defined in point (24) of Article 4(1) of Directive 2014/65/EU, has been made or which is traded on a trading venue as defined in point (24) of Article 4(1) of Directive 2014/65/EU or via a systematic internaliser as defined in point (20) of Article 4(1) of that Directive.
- 8) **‘input data’** means the data in respect of the value of one or more underlying assets, or prices, including estimated prices, quotes, committed quotes or other values, used by NoRe to determine Nibor.
- 9) **‘Input Data Source’** means the collection of data that is used by a submitter to determine their Input Data.
- 10) **‘interest rate benchmark’** means a benchmark at which banks may lend to, or borrow from, other banks, or agents other than banks, in the money market.
- 11) **‘leading bank’** means a bank with a high credit rating for short-term debt which is active in the Norwegian money and foreign exchange market on competitive terms.

- 12) **'Panel Bank'** means a supervised entity that contributes Input Data to NoRe located within the European Economic Area that meets the criteria for inclusion on the Benchmarks panel as is either:
- a credit institution as defined in point 1 of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council;
  - an investment firm as defined in point (1) of Article 4(1) of Directive 2014/65/EU;
  - an insurance undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council.
- 13) **'RTS'** means Regulatory Technical Standard adopted by the EU Commission based on provisions given in the BMR.
- 14) **'submitter'** means a natural person employed by the Panel Bank for the purpose of contributing Input Data.
- 15) **'the benchmark'** means Nibor (derived from Norwegian Interbank Offered Rate).
- 16) **'the Nibor Post Publication Re-Determination Policy'** means the policy that outlines a recalculation of the benchmark due to the reporting of erroneous Input Data or erroneous calculation and publication of Nibor.
- 17) **'transaction data'** means observable prices, rates, indices or values representing transactions between unaffiliated counterparties in an active market subject to competitive supply and demand forces.

## Version history

| Version | In force   | Approved and adopted   | Changes  |
|---------|------------|--|--|
| V1.0    | 01.01.2020 | Approved by Nibor Compliance (Oversight) Committee 18.11.2019. Adopted by NoRe Board 02.12.2019. |  |
| V1.1    | 01.11.2020 | Approved by Nibor Oversight Committee 06.07.2020. Adopted by NoRe Board 30.09.2020               | Clause 3.3 c): Addition to clarify weighted funding costs in USD and EUR.<br>Clause 4.14: Addition to the requirements on policies connected to submissions.   |
| V1.2    | 01.02.2022 | Approved by Nibor Oversight Committee 09.03.2021. Adopted by NoRe Board 16.04.2021               | Clause 4.5: Addition of point d) to list of required procedures.   |
| V1.3    | 01.02.2022 | Approved by Nibor Oversight Committee 25.10.2021. Adopted by NoRe Board 03.11.2021               | Clause 1.5 and Clause 1.9: Updated to reflect the recognition of Nibor as a Critical Benchmark.<br>Clause 5.2 e): Deleted duplication of requirement following Clause 5.2 h).<br>Clause 5.2 g): Correction of reference. |