

PRESS RELEASE

ESMA finalises advice on future rules for financial benchmarks

The European Securities and Markets Authority (ESMA) has finalised its [technical advice](#) to the European Commission on important aspects of future rules for benchmarks. In particular, ESMA provides advice on:

- how benchmarks' reference values can be calculated by using data reporting structures under existing EU rules such as MiFID II and EMIR;
- some of the criteria for deciding when third country benchmarks can be endorsed for use in the European Union (EU); and
- what constitutes making a benchmark figure available to the public.

Steven Maijoor, ESMA Chair, said:

“In finalising our advice, we have listened carefully to stakeholders and they have expressed concerns in particular about duplicative reporting regimes under different pieces of EU legislation. Where existing reporting mechanisms can be used for new regulatory purposes, we will always strive to streamline processes and I believe our advice on measuring benchmarks' reference values reflects that commitment.”

Benchmarks lie at the heart of financial markets as they help to price assets and measure the performance of investments. In the wake of the manipulation of various benchmarks, this new European regulatory framework clarifies the behaviours and standards expected of administrators and contributors to ensure that benchmarks are produced in a transparent and reliable manner.

Use of MiFID II and EMIR data to measure benchmarks' reference value

ESMA recommends that data collected from current and forthcoming reporting structures under EMIR (European Markets Infrastructure Regulation), MiFID II (Markets in Financial Instruments Directive), UCITS (Undertakings for Collective Investment in Transferable

Securities Directive) and the AIFMD (Alternative Investment Fund Managers Directive) is used to calculate the reference value of benchmarks.

The assessment of benchmarks as *critical*, *significant* or *non-significant* is carried out against the thresholds of EUR 400 and 500 billion for critical benchmarks and the threshold of EUR 50 billion for significant benchmarks. In looking at how to obtain the data needed for this assessment, ESMA has reviewed data collected under existing EU legislation with the aim of providing a solution which is as streamlined and integrated with the rest of the EU reporting framework as possible. As some of the necessary data collections under EMIR and MiFID II will not start until after 3 January 2018, when the Benchmarks Regulation comes into force, ESMA proposes an interim *fall-back regime* where benchmark providers use data from private providers, in combination with existing regulatory data.

Criteria for deciding whether third country benchmarks can be endorsed in the EU

ESMA provides a non-exhaustive list of criteria that national regulators should take into account when they assess whether an EU benchmark administrator (the endorsing administrator) will be permitted to endorse a benchmark provided in a third country, for use in the EU. The criteria cover:

- objective reasons for the provision of a benchmark in a third country, for example, a benchmark measures a market geographically limited to a certain region and the benchmark provider is closely linked to that market; and
- objective reasons for the endorsement of a benchmark's use in the EU, for example, technical reasons or the third country legal framework prevent the benchmark being provided in the EU.

Definition of “making [a figure] available to the public”

The definition of a benchmark, which is essential because it determines the legislation's scope, presupposes that the index value should be made available to the public. ESMA advises that 'making available to the public' should mean the index value (as a figure) is available to a potentially indeterminate number of persons outside of the index provider's legal entity. ESMA decided not to set a quantitative threshold regarding the number of recipients on the basis that any restriction of access results in the index value not being available to the public.



Final rules

The European Commission will prepare the final rules for benchmarks which should enter into force by 1 January 2018.

Notes for editors

1. On 11 February 2016 ESMA received [a request](#) from the European Commission for technical advice on possible delegated acts under the Benchmark Regulation.
2. ESMA published its [consultation paper](#) on draft technical advice under the Benchmarks Regulation in May 2016.
3. In August 2016, EURIBOR (Euro Interbank Offered Rate), one of the most important interest rate indexes in the EU, was the first to be included in the list established by the European Commission.
4. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
 - ii. completing a single rulebook for EU financial markets;
 - iii. promoting supervisory convergence; and
 - iv. directly supervising specific financial entities.
5. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

Further information:

Catherine Sutcliffe

Senior Communications Officer

Tel: +33 (0)1 58 36 51 80

Email: press@esma.europa.eu