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Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Benchmarks Regulation

Subject Matter

Exemption on single reference price (ESMA70-145-114 Q&A_4.3)

Question

Article 2(2)(d) BMR exempts the application of the BMR for “the provision of a single reference price for any financial instrument listed in Section C of Annex I to Directive 2014/65/EU”. What does “single reference price” mean?

29-09-2017

Original language

Article 2(2)(d) BMR excludes prices from the scope of the Benchmarks Regulation that are only reflecting the value of “any financial instrument.” With its singular use of the term, the exclusion would not cover e.g. a basket of securities or an index based on the price of more than one financial instrument.

Similarly, Recital 18 of the BMR states that single prices or single value reference prices should not be considered benchmarks under the BMR and it includes the example of a price of a single security the provision of which does not include any calculation, input data or discretion.

Following Recital 13 of the BMR on the types of use of a benchmark, the setting and reviewing weights within a combination of benchmarks, which is generally also only based on a simple average or similar figure if any, should not amount to the provision of a benchmark as such an activity does not involve discretion. This discrimination further supports the exemption of single reference prices, based on little or no calculation and with no discretion involved, by way of analogy.

Other EU legislation refers to a price of a financial instrument published by one trading venue and referred to by another trading venue as a “reference price” (Article 4(1)(a) of Regulation (EU) 600/2014 (MiFIR)). Such “reference prices” as published by trading venues may also include a simple calculation, e.g. a re-calculation as a “per unit” price or an averaging, but no complex methodology is applied, nor is additional data being processed. ESMA considers that the term “single reference price” should be interpreted similarly