# ESMA_QA_724

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## Additional Information

**Level 1 Regulation**
Benchmarks Regulation (BMR) - Regulation 2016/1011

**Topic**
Benchmarks Regulation

**Subject Matter**
Commodity benchmarks (ESMA70-145-114 Q&A_4.5)

**Question**
How should the threshold for the exemption for commodity benchmarks under Article 2(2)(g)(ii) of the BMR be calculated?

## ESMA Answer

05-02-2018

Original language

Article 2(2)(g) of the BMR excludes from the scope of the BMR a commodity benchmark that is based on submissions from contributors the majority of which are non-supervised entities and which both of the following conditions apply:

I. it is referenced by financial instruments for which a request for admission to trading has been made on only one trading venue or which are traded on only one such trading venue; and

II. the total notional value of financial instruments referencing the benchmark does not exceed EUR 100 million.

The last condition refers to the "*total notional value of financial instruments*". Financial instruments is defined in Article 3(1)(16) of the BMR as any of the instruments listed in Section C of Annex I of MiFID II for which a request for admission to trading on a trading venue has been made or which are traded on a trading venue or systematic internaliser. Unlike the thresholds mentioned in Article 20 (*critical benchmarks*) and Article 24 (*significant benchmarks*) of the BMR, the second condition in Article 2(2)(g) does not refer to financial contracts (a term defined in Article 3(1)(18) of the BMR).

In order to perform the calculation for the thresholds of critical benchmarks (Article 20(1)(a)) and of significant benchmarks (Article 24(1)(a)), Article 20(6)(a) of the BMR empowers the Commission to adopt delegated acts to specify how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed.

The Commission Delegated Regulation (EU) 2018/66 on this matter has been published in the EU Official Journal on 17/01/2018 and does not directly apply to commodity benchmarks. Nevertheless, ESMA considers that the methodology to be used for calculating the total value of financial instruments referencing a commodity benchmark under Art.2(2)(g)(ii) of the BMR should follow the specifications included in Commission Delegated Regulation (EU) 2018/66.