

Submission Date

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Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Registration/Authorisation

Subject Matter

Authorisation and registration vis-à-vis the applicability of the requirements of the BMR (ESMA70-145-114_Q&A 7.1)

Question

Are EU index providers required to comply with the obligations laid down in the BMR before they are authorised or registered?

ESMA Answer

14-12-2017

Original language

Article 34(2) of the BMR “Authorisation and registration of an administrators” states that “*an authorised or registered administrator shall comply ‘at all times’ with the conditions laid down in the Regulation*”. This wording suggests that only an authorised or registered administrator is required to comply with the BMR’s conditions. “Conditions”, in this context, should be understood as encompassing the requirements imposed by the BMR on administrators.

Paragraph (4) of the same Article states that “*the applicant [index provider] shall provide all information necessary to satisfy the competent authority that the applicant has established, at the time of authorisation or registration, all the necessary arrangements to meet the requirements laid down in this Regulation*”. Also this paragraph clearly indicates that index providers, in order to be authorised or registered as administrators, must be in a position to meet the requirements of the BMR at the time of authorisation or registration, i.e. not before that date. Therefore EU index providers are required to comply with the obligations laid down in the BMR only at the time of authorisation or registration.