

Submission Date

31/03/2023

ESMA_QA_759

Status: Answer Published

Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Benchmarks Regulation

Subject Matter

Update of prospectuses as per Article 29(2) (ESMA70-145-114_Q&A 8.4)

Question

Should prospectuses include reference to the register of administrators and benchmarks?

ESMA Answer

24-05-2018

Original language

ESMA considers that prospectuses should include reference to ESMA register of administrators and benchmarks (“the register”) as follows.

In relation to prospectuses approved on or after 1 January 2018:

- Where the register already includes the relevant administrator by the time a prospectus under Directive 2003/71/EC or Directive 2009/65/EC is published, ESMA considers that such prospectus should include a reference to the fact that the administrator is listed in the register.
- Where the register does not include the relevant administrator by the time a prospectus is published, ESMA considers that such prospectus should include a statement to that effect. Additionally:
 - Prospectuses published under Directive 2009/65/EC should be updated at the first occasion once the relevant administrator is included in the register.
 - Prospectuses approved under Directive 2003/71/EC are not required under BMR to be systematically updated by means of a supplement once the relevant administrator is included in the register. This is without prejudice to the obligation under Directive 2003/71/EC of the issuer, offeror or person asking for admission to trading on a regulated market to assess on a case-by-case basis the significance and/or materiality of the specific situation.

In relation to prospectuses approved prior to 1 January 2018:

- Prospectuses approved under Directive 2009/65/EC should be updated at the first occasion or at the latest within 12 months after 1 January 2018. If by 1 January 2019 the relevant administrator is not included in the register, ESMA considers that these prospectuses should be updated to include a statement to that effect.
- Prospectuses approved under Directive 2003/71/EC are not required under BMR to be systematically updated by means of a supplement once the relevant administrator is

included in the register. This is without prejudice to the obligation under Directive 2003/71/EC of the issuer, offeror or person asking for admission to trading on a regulated market to assess on a case-by-case basis the significance and/or materiality of the specific situation.