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Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Benchmarks Regulation

Subject Matter

Transitional provisions applicable to EU index providers starting to provide a benchmark between 1 July 2016 and 31 December 2017 (ESMA70-145-114_Q&A 9.2)

Question

Where an EU index provider that was not providing a benchmark on 30 June 2016 starts to provide benchmarks between 1 July 2016 and 31 December 2017, can these benchmarks be used by supervised entities in the Union? Can the same index provider provide new benchmarks after 1 January 2018 and before it is authorised or registered?

ESMA Answer

05-07-2017

Original language

Article 51(3) allows an EU index provider to continue to provide an existing benchmark which may be used by supervised entities until 1 January 2020 or unless and until authorisation or registration is refused.

ESMA considers that the term “existing benchmark” used in Article 51(3) should be understood as “existing on or before 1 January 2018”, in light of the fact that Article 51(3) will be applicable as of 1 January 2018.

On this ground, ESMA’s understanding of the transitional provisions in Article 51(3) is the following: all benchmarks provided for the first time on or before 1 January 2018 by an EU index provider can be used by a supervised entity until 1 January 2020 or until and unless the authorisation or registration of the EU index provider is refused.

Therefore, if an EU index provider starts to provide benchmarks between 30 June 2016 and 1 January 2018, such benchmarks, including their updates and modifications, can be used by supervised entities on and after 1 January 2018 (even if the authorisation or registration is not yet granted) and until 1 January 2020 or until and unless the authorisation or registration of the EU index provider is refused.

However, in the case that an EU index provider starts to provide benchmarks after 30 June 2016 and provides a new benchmark after 1 January 2018, supervised entities will not be allowed to use such newly provided benchmark, unless the EU index provider obtains first authorisation or registration.