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Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Benchmarks Regulation

Subject Matter

Readily available data

Question

What does “readily available” data according to Article 3(1)(8) of the BMR mean? What is the difference with the other types of input data such as regulated data?

ESMA Answer

23-06-2022

Original language

Answer provided by the European Commission in accordance with article 16b(5) of the ESMA Regulation

Input data is defined in Article 3(1)(14) BMR as the data in respect of the value of one or more underlying assets, or prices, including estimated prices, quotes, committed quotes or other values, used by an administrator to determine a benchmark.

The concept of readily available data is not defined in the BMR. The BMR states only that the data is either contributed to the administrator for the purposes of determining a benchmark or it is readily available. Whether input data is contributed or is readily available has no bearing on the administrator's responsibility as defined in Title II of the BMR. At the same time, the BMR accepts that it cannot impose rules (e.g., code of conduct by a benchmark administrator) on data sources that simply publish data which are later used to piece together a benchmark.

The summary table below sets out the consequences of this categorisation of input data.

Summary table

Types of input data

Readily available data

Contribution of input data

Regulated data

Non regulated data

Not provided to an administrator for the purpose of determination of a benchmark

Provided to an administrator for the purpose of determination of a benchmark

Provided to an administrator for the purpose of determination of a benchmark

Contributed entirely and directly from the entities listed in Article 3(1)(24)

Exemptions applicable to the benchmark

Readily available data

Regulated data

Non regulated data

Article 8(1)(a) –record
keeping of all input data

Article 11(1)(d) and (e), (2)
(a) and (b) and (3) - Input
data

Article 15 – code of
conduct for contributors

Article 14(1) and (2) –
integrity of input data, and
detection and reporting of
manipulation or attempted
manipulation

None - other exemptions may apply
depending on the type of the
benchmark (interest rate,
commodity, significant or non-
significant)

Article 16 – governance
and control requirements
for supervised contributors

Article 15 – code of conduct
for contributors

Article 16 – governance and
control requirements for
supervised contributors

Examples

Transaction data made publicly available (for example by a DRSP)

MMSR data provided to the ECB which is used to calculate €STR

Data collected and published by a central bank or other public authority as part of normal regulatory data-gathering

Transaction data sourced from a non-EU trading platform with no equivalence decision, not provided to an administrator for the purpose of determination of the benchmark

Transaction data sourced directly from an EU trading platform or data service provider

Transaction data provided by a TV on a real time basis

Input data contributed to commodity benchmark administrators or an administrator of an interest rate benchmark

Transaction data sourced from a non-EU trading platform with no equivalence decision, provided to an administrator for the purpose of determination of the benchmark

Disclaimer:

The answer clarifies provisions already contained in the applicable legislation. It does not extend in any way the rights and obligations deriving from such legislation nor does it introduce any additional requirements for the concerned operators and competent authorities. The answer is merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of

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