

30 November 2022

ESMA Publishes a Final Report and Consultation on Standards for Benchmark Administrator Applications

This circular is being addressed to market participants, particularly those falling within the scope of Regulation (EU) 2016/1011 of the European Parliament and of the Council on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (hereinafter referred to as 'the Benchmarks Regulation' or 'BMR'), *inter alia* administrators of benchmarks, contributors of benchmarks and users of benchmarks. This circular may also be of interest to third country administrators of benchmarks.

1.0 Introduction

The Authority would like to inform market participants that on 28 November 2022, the European Securities and Markets Authority ('ESMA'), published a [Final Report](#) on the review of the regulatory technical standards ('RTS') on the form and content of applications for recognition by non-EU benchmark administrators. Additionally, ESMA has also published a [Consultation](#) on amendments to the RTS on the information that EU benchmark administrators need to provide in applications for authorisation and registration.

2.0 Final Report on the Amended Standards for Applications for Recognition

In terms of Commission Delegated Regulation (EU) 2018/1645, an application for recognition of a third-country administrator must include information on the applicant and its legal representative in the European Union and the Benchmarks provided by the applicant. Since the Delegated Regulation was published in 2018, it requires amendments to reflect the changes introduced in 2019 by Regulation (EU) 2019/2175 of the European Parliament and the Council.

The Final Report consists of three chapters highlighting ESMA's legal mandate to develop draft RTS, the feedback received from the consultation and the proposed draft RTS. The draft RTS included therein is aimed at aligning the information provided in a recognition application with the amendments made to the BMR following the transfer of direct supervisory responsibilities to ESMA. This is to ensure that these applications include all necessary information in order for ESMA to assess whether the applicant meets BMR requirements.

Third country benchmark administrators who wish to apply for recognition, are encouraged to contact ESMA on Supervision-BMR@esma.europa.eu.

3.0 Input Sought on Standards for Applications for Authorisation and Registration

The proposed changes to Delegated Regulation (EU) 2018/1646 are aimed at reflecting the changes made to the RTS on the recognition regime introduced in the Final Report discussed in Section 2.0 of this Circular.

In this respect, through the consultation, ESMA is seeking stakeholder views on proposed changes to the RTS on authorisation and registration. The objective is to safeguard equal treatment between EU and non-EU Benchmarks administrators by aligning the information requested in applications from EU administrators with the information requested in recognition applications from non-EU administrators.

4.0 Next Steps

ESMA will consider the responses to its consultation before submitting the draft RTS on authorisation and registration to the European Commission for adoption. Stakeholders should submit their responses by not later than 31 January 2023.

Please note that responses should be submitted online through ESMA's website (www.esma.europa.eu), specifically, under the heading 'Your input – Consultations' (accessible through the following [link](#)) and using the following specific [response form](#).

5.0 Contacts

Should you have any queries in relation the above, please do not hesitate to contact the Authority on Benchmarks@mfsa.mt for any further clarifications.