

1 June 2023

ESMA Publishes a Final Report on the Review of Commission Delegated Regulation (EU) 2018/1646

This circular is being addressed to all market participants, particularly those falling within the scope of Regulation (EU) 2016/1011 of the European Parliament and of the Council of 08 June 2016 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.

1.0 Introduction

The Authority would like to inform market participants that on 30 May 2023, the European Securities and Markets Authority ('ESMA'), published a [Final Report](#) on the review of Commission Delegated Regulation (EU) 2018/1646 (the 'Delegated Regulation'/the 'RTS') which lays out regulatory technical standards on the information to be provided in an application for authorisation and registration under the Benchmarks Regulation (the 'Review').

2.0 Final Report on the Review

In terms of the Delegated Regulation, an application for authorisation or registration of an administrator located in the Union needs to include information on:

- (i) the applicant; and
- (ii) the benchmarks provided by the applicant.

The RTS, which was published in 2018, specifies this information. Nevertheless, with the changes to the RTS on the recognition of third-country administrators that ESMA proposed in its final report on the review of the RTS on recognition, which was published on [28 November 2022](#), this RTS needs to be amended to ensure alignment. Such alignment will ensure an equal treatment between EU based and third country-based administrators when they submit their application under the BMR to the respective competent authorities.

The Final Report consists of three chapters highlighting ESMA's legal mandate to develop the draft technical standards, the feedback received to the open public consultation and the final proposal for the draft technical standards. The Final Report also includes in the annexes the

draft amendments to the technical standards together with a marked-up consolidated version of the draft technical standards and a cost and benefit analysis.

3.0 Next Steps

The amended draft RTS will be submitted to the European Commission. Thereafter, the Commission has three months to decide whether to endorse the RTS.

4.0 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.