



European Securities and  
Markets Authority

# Questions and Answers

On the Benchmarks Regulation (BMR)



ESMA70-145-11  
Version 1  
Last updated on 05 July 2017

## Table of Contents

1. Purpose and status .....	3
2. Legislative references and abbreviations.....	3
3. Summary table .....	5
4. Questions and Answers on Transitional Provisions .....	6

## 1. Purpose and status

1. The purpose of this document is to promote common, uniform and consistent supervisory approaches and practices in the day-to-day application of [Benchmarks Regulation](#) ((EU) 2016/1011, “BMR”). It does this by providing responses to questions asked by the public, financial market participants, competent authorities and other stakeholders. The question and answer (Q&A) tool is a practical convergence tool used to promote common supervisory approaches and practices under Article 29(2) of the ESMA Regulation. Further information on ESMA’s Q&A process is available on our website.
2. ESMA intends to update this document on a regular basis and, for ease of reference, ESMA provides the date each question was first published as well as the date/s of amendment beside each question. A table of all questions in this document and dates is provided in Section I.
3. Additional questions on BMR may be submitted to ESMA through the Q&A tool on our website ([here](#)). Please see the guidance available on our website before submitting your question.

## 2. Legislative references and abbreviations

### Legislative references

<i>ESMA Regulation</i>	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC <sup>1</sup>
<i>BMR</i>	Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Text with EEA relevance) <sup>2</sup>

### Abbreviations

<i>EU</i>	European Union
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<sup>1</sup> OJ L 331, 15.12.2010, p. 84

<sup>2</sup> OJ L 171, 29.6.2016, p. 1–65



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### 3. Summary table

Subject	Q	Topic of the Question	Level 1 / Level 2 provision	Last updated
Transitional Provision				
	4.1	EU index providers providing benchmarks as of 30/06/16	Article 51(1) of BMR	05/07/2017
	4.2	EU index providers providing benchmarks after 30/06/16	Article 51(3) of BMR	05/07/2017

## 4. Questions and Answers on Transitional Provisions

### Transitional Provisions applicable to EU index providers already providing a benchmark on 30 June 2016

Updated: 05/07/2017

**Q4.1** Where an EU index provider, that already provided a benchmark on 30 June 2016 and that has not yet been authorised or registered, provides a new benchmark after 1 January 2018, could such a benchmark be used by supervised entities in the Union under the transitional provisions of the Benchmarks Regulation?

**A4.1** Article 51(1) allows an EU index provider, already providing a benchmark on 30 June 2016, to apply for authorisation or registration until 1 January 2020. This transitional provision applies at the entity level.

ESMA considers that during such period, the EU index provider is allowed to continue its activity of provision of benchmarks in full and supervised entities in the Union are able to use all the benchmarks provided by EU index providers that qualify for the transitional provisions in Article 51(1).

This includes benchmarks already provided before 1 January 2018, updates and modifications of benchmarks already provided before 1 January 2018, as well as the provision of new benchmarks for the first time after 1 January 2018. The transitional provisions of Article 51(1) are to be applied unless and until the authorisation or registration of the EU index provider is refused.

### Transitional Provisions applicable to EU index providers starting to provide a benchmark between 1 July 2016 and 31 December 2017

Updated: 05/07/2017

**Q4.2** 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?

**A4.2** 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.