

ESMA responds to European Commission consultation on the Benchmark Regulation review

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has published its response to the European Commission's (EC) Consultation on the review of the Benchmark Regulation (BMR). ESMA's responses focus on the cessation of critical benchmarks, parity between EU and third-country benchmarks and transparency.

Steven Maijoor, Chair, said:

"Reliable benchmarks are crucial for the referencing and pricing of financial instruments. We have made progress in making the administration and use of benchmarks more robust, however, the transition to the new BMR regime is not yet finalised.

"While the transitional period for critical and third country benchmarks is ongoing, we believe that it is important to provide for a smooth transition, including for IBORs, by enhancing the requirements for critical benchmarks and ensuring the right level of oversight for EU and third country benchmarks. The proposals aim to improve transparency to the benefit of users of benchmarks and contribute to orderly and stable financial markets."

In its response to the consultation, ESMA provided its views on key issues:

- to enhance critical benchmarks framework, ESMA proposes that:
 - competent authorities are able to request an administrator to change its methodology;
 - the process of suspension or withdrawal of authorisation or registration of an administrator is clarified; and
 - the assessment by competent authorities of the cessation procedures of the administrator is clarified;
- in order to ensure a level playing field between EU and third country benchmarks, ESMA proposes to take into account different alternative approaches when defining the scope of the BMR; and
- to increase transparency to the benefit of benchmark users, ESMA proposes to include the list of both EU and third-country benchmarks in its register together with an appropriate identification of benchmarks.

The BMR has been in force since 1 January 2018 and seeks to increase the robustness and reliability of financial benchmarks. Under the BMR, administrators of third country and critical benchmarks must apply for authorisation by 31 December 2021 in order for their benchmarks to continue to be used in the EU. The application date for the remaining administrators expired on 1 January 2020. So far, 70 EU administrators are authorised or registered under the BMR, and nine third-country administrators which

includes six who were recognised, two endorsements and one administrator following a positive equivalence decision.

Next steps

The EC will use this feedback to inform its recommendations on the effectiveness of the BMR in a report to be provided to the European Parliament and Council