

Handbook changes to reflect the application of the EU Benchmarks Regulation

Feedback to CP17/17 and near-final rules

Policy Statement

PS17/28

December 2017

This relates to

Consultation Paper 17/17 (Handbook changes to reflect the application of the EU Benchmarks Regulation), which is available on our website at:
www.fca.org.uk/publication/consultation/cp17-17.pdf

Please send any comments or queries to:

Benchmarks Policy
 Markets Policy
 Financial Conduct Authority
 25 The North Colonnade
 Canary Wharf
 London E14 5HS

Email:

cp17-17@fca.org.uk

Telephone:

020 7066 7018

How to navigate this document onscreen



returns you to the contents list



takes you to helpful abbreviations

Contents

1	Overview	3
2	Issues raised in the feedback	7
3	Fees	11
4	Application of Handbook requirements	16
5	Other changes	19
Annex 1		
	List of non-confidential respondents	20
Annex 2		
	Abbreviations used in this paper	21
Appendix 1		
	Final draft benchmarks application forms	
Appendix 2		
	Near-final rules (legal instrument)	

1 Overview

Introduction

- 1.1** The EU Benchmarks Regulation¹ (BMR) will apply from 1 January 2018. We consulted in our Consultation Paper CP17/17 on the changes to our Handbook required to ensure that our Handbook is consistent with it. In this Policy Statement (PS), we provide our feedback on the responses we received, and we publish near-final draft rules, as the legislative framework for our Handbook changes is not yet in place. Once the necessary legislative processes are complete, we intend to make these as final rules.
- 1.2** We are also publishing the final drafts of the four BMR application forms, for authorisation, registration, recognition and endorsement.

Who does this affect?

- 1.3** The Handbook changes will affect:
- Benchmark administrators,
 - Firms that are already supervised under EU financial services legislation and that
 - contribute input data to benchmarks, or
 - use benchmarks

Is this of interest to consumers?

- 1.4** Our Handbook rule changes will not have any direct effect on consumers, but consumers of financial instruments or contracts or investment funds that are based on benchmarks could be affected by the application of the BMR and our rules.

Context

- 1.5** The BMR aims to prevent harm that could affect those who use financial instruments, financial contracts or investment funds that reference benchmarks. It will largely replace the existing UK regulation of certain specified benchmarks and will apply to a much wider range of indices.

¹ 'Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016' (OJ L171, 29.06.16, p.1, data.europa.eu/eli/reg/2016/1011/oj)



- 1.6** We need to change various parts of our Handbook so that it is consistent with the BMR. Mostly this involves removing domestic rules that are superseded by the BMR, though they will continue to apply to the administrators of, and submitters to, those benchmarks we already regulate until their administrators become authorised or registered under the BMR. We are maintaining some domestic rules on benchmark administrators where they are needed for our supervision of benchmark administrators or contributors, or for enforcing the BMR.
- 1.7** We consulted on proposed changes to the Handbook and on the authorisation, registration, endorsement and recognition forms in CP17/17², published on 22 June 2017.
- 1.8** In that consultation, we explained that we were working on assumptions about what would be in forthcoming EU and UK secondary legislation that is required under the BMR. The European Commission (the Commission) has published one set of regulations, based on the technical advice provided by the European Securities and Markets Authority (ESMA), and is expected to publish regulations based on the draft Technical Standards submitted by ESMA soon. ESMA has produced some 'question and answer' guidance clarifying the way in which national competent authorities will apply the BMR.³
- 1.9** The consultation paper made clear that there was some uncertainty about the interpretation of the transitional provisions in the BMR. In the consultation, we worked on the assumption that the BMR, which applies from 1 January 2108, would only be applicable to each administrator from the date on which it is authorised or registered and our draft rules contained a transitional provision to reflect that. For administrators we already regulate, we still propose to maintain our UK rules until they are authorised or registered and we have retained the transitional provision.
- 1.10** In relation to contributors, our consultation proposals were based on the assumption that (with the exception of article 23) the BMR would apply to a contributor to a benchmark only from the date of authorisation or registration of the administrator of that benchmark. The draft rules in the consultation paper therefore contained a transitional provision which maintained our existing UK rules for LIBOR contributors until the point at which the LIBOR administrator is authorised under the BMR. We intend to take the approach proposed and maintain the transitional provision for LIBOR. However, we would expect all supervised contributors to start preparing to comply with the BMR from the point at which the administrator is authorised or registered.
- 1.11** The changes which HMT is proposing to UK secondary legislation have not yet been made, and so we are unable to make final Handbook changes now. We are therefore publishing near-final rules now, and we will make the final rules once the necessary legislative process is complete.

2 CP17/17, 'Handbook changes to reflect the application of the EU Benchmarks Regulation', FCA, 22 June 2017, www.fca.org.uk/publication/consultation/cp17-17.pdf

3 Questions and Answers on the Benchmarks Regulation, ESMA, ESMA70-154-11, www.esma.europa.eu/sites/default/files/library/esma70-145-114_qas_on_bmr.pdf

Summary of feedback and our response

- 1.12** We received 17 responses to CP17/17, including 12 from prospective applicants to be benchmark administrators. Most responses supported the overall approach, particularly the disapplication of areas of the Handbook that overlap with the BMR. One important theme was the need to be clear about the way the Handbook would apply in relation to certain commodity benchmarks, and this is covered in Chapter 2.
- 1.13** Most responses were to the general question of whether respondents agreed with our proposals. We also included specific questions on mortgage disclosure requirements (covered in paragraph 2.12 below), forms (paragraph 2.11), fees (Chapter 3), and the cost benefit analysis (paragraphs 2.13 and 2.14).
- 1.14** Two respondents argued that we should not add any Handbook requirements to the directly-applicable BMR. Chapter 4 sets out all of the parts of the Handbook we are applying and explains why we believe that they are important to enable us to supervise under the BMR and to enforce it if necessary so that the BMR achieves its objective of ensuring the integrity and reliability of benchmarks, which should prevent harm to markets and consumers

Equality and diversity considerations

- 1.15** We have considered the equality and diversity issues that may arise from the proposals in this Policy Statement.
- 1.16** We do not consider that the proposals in this Policy Statement adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment. We received no comments from respondents to CP17/17 on our assessment.

Next steps

- 1.17** We will make final rule changes to the Handbook once we have the necessary legislative authority to do so.
- 1.18** If you are a benchmark administrator, you should continue your preparation for the application of the BMR from 1 January 2018, taking into account, where applicable, the transitional period between then and 1 January 2020. You will generally need to comply with the BMR and the Handbook rules from the date on which you are authorised or registered as an administrator.
- 1.19** If you are already supervised by the FCA and you use or provide input data for a benchmark, you should consider whether you are a "supervised user" or a "supervised contributor" as defined in the BMR.



1.20 We are already accepting draft applications for authorisation and registration from UK administrators. From 2 January 2018, the first working day on which the BMR applies, we will be accepting final applications for authorisation and registration, and also applications for recognition of third-country benchmark administrators and endorsement of third-country benchmarks.

1.21 We will consult separately next year on:

- extending the Senior Managers & Certification Regime (SM&CR) to benchmark administrators (see paragraph 2.10)
- applying the BMR rules on users of benchmarks to supervised UK branches of third country firms to the extent that they are not “supervised entities” for the purposes of the BMR (see paragraph 5.6)

2 Issues raised in the feedback

- 2.1** This chapter summarises the feedback we received to most of our consultation questions and gives our responses to it. We address the responses to our fees proposal in Chapter 3.

Commodity benchmarks ('Annex II')

- 2.2** The BMR has a significantly different regime for administrators of commodity benchmarks, who are subject to Annex II of the BMR in place of its standard rules on benchmark integrity and reliability. Annex II is designed for 'price reporting agencies' ('PRAs'), which are firms with a media background that include commodity price indices in their trade publications. As some of these indices are used in financial products including commodity derivatives, they are benchmarks under the BMR. Annex II provides significantly less extensive requirements on governance, systems and controls than apply to other benchmark administrators.
- 2.3** Six respondents argued that the CP and the draft Handbook instrument did not adequately take into account the special treatment in the BMR of Annex II benchmarks. In particular, they were concerned about the treatment of contributors to Annex II benchmarks, and the proposed Handbook guidance to administrators that they should notify us of suspected manipulation.
- 2.4** These respondents wanted clarification that the main BMR requirements in relation to contributors did not apply to contributors to Annex II benchmarks. Most of them argued that, as Annex II does not impose any obligations directly on contributors, it would be wrong for any of the Handbook to be applied to those contributors. One response was particularly concerned about the potential effect on EU contributors to third-country benchmarks.
- 2.5** Similarly, the proposed guidance about reporting suspected manipulation was formed around Article 14 (Reporting of infringements) of the BMR, which does not apply to Annex II administrators. They said that it should be clarified that the guidance would not apply to Annex II administrators.
- 2.6** They also pointed out that the draft authorisation and registration forms did not cater for the special case of Annex II firms, because they asked for information to evidence compliance with the standard requirements of the BMR, rather than the different Annex II requirements.
- 2.7** Of these respondents, 2 argued that there should be no Handbook rules, possibly apart from a bare minimum for operability, as the BMR provided a free-standing piece of legislation.



Our response

We have amended the Handbook Instrument so that it is now clear that certain Handbook requirements do not apply to Annex II firms. This applies in particular to the rules applicable to contributors and the guidance on reporting suspected manipulation. We have also amended the draft forms so that is clear that Annex II applicants do not need to complete questions that are not applicable to them.

Approved Persons Regime (APR) and Senior Managers & Certification Regime (SM&CR)

- 2.8** The respondents that wanted no Handbook requirements did not want the APR or SM&CR applied to Annex II firms. They are particularly concerned about the Code of Conduct (COCON) part of the SM&CR, which they consider incompatible with their employees' status as journalists.
- 2.9** Four other respondents addressed the APR and SM&CR. Three agreed with our proposal not to include the Certification Regime which forms part of the SM&CR, because it overlaps significantly with the BMR.
- 2.10** Our CP17/17 on the BMR was published shortly before our CP17/25 on 'Individual Accountability: Extending the Senior Managers and Certification Regime to all FCA firms'. One respondent asked for clarification of the relationship between the two. They also said that they would expect the application of the SM&CR to Annex II firms to be limited to what is appropriate for them.

Our response

We believe that individual responsibility is an important part of ensuring we are able to supervise and enforce effectively, in particular in relation to the actions of individuals within benchmark administrators. We are therefore continuing with the approach proposed in the consultation of applying the APR to benchmark administrators, except for the few firms to whom the SM&CR already applies.

We will consult separately on consequential changes to the proposed extended SM&CR rules to reflect their application to benchmark administrators in place of the APR. In considering our proposals for consultation, we will take into account the possible impact of imposing a code of conduct on staff at Annex II firms who are involved in journalism.

Forms

- 2.11** As noted above, several respondents asked that the forms be changed so that they were more appropriate for Annex II administrators, or that there should be separate forms for them. The responses also contained many questions about what was intended by questions on the forms, and suggestions for improving them.

Our response

We have revised the forms and the associated guidance notes in the light of the responses. Amended authorisation and registration forms were made available on our website on 1 October 2017, when we opened for draft applications. Final draft versions of the authorisation, registration, recognition and endorsement application forms are at Appendix 1.

Mortgages

- 2.12** We received 1 response from a trade body in favour of the proposed changes to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB) to implement the additional mortgage disclosure required by the Regulation and to correct our transposition of the Mortgage Credit Directive.

Our response

We are continuing with the approach proposed in the consultation. We have also added new guidance to address the treatment of Standard Variable Rates.

Cost benefit analysis (CBA)

- 2.13** Four respondents addressed the question on the CBA. One trade association agreed that there would be minimal costs from the APR and SM&CR, and from the guidance about reporting suspicions of manipulation.
- 2.14** The others said that the CBA did not take into account the costs of adding what they considered to be inappropriate requirements to Annex II benchmark administrators, including the possible consequences for the continued availability of their benchmarks. They said generally that imposing any Handbook requirements on top of the BMR would lead to costs and impact on the market greater than the CBA suggested.



Our response

Now that we have clarified which Handbook rules do not apply to Annex II contributors, we believe that the specific concerns raised by the PRAs on the CBA are dealt with. Chapter 4 sets out the parts of the Handbook that will apply in addition to the BMR and why we believe they are required for our supervision and enforcement. We consider that the CBA in CP17/17 is a reasonable assessment of the impact of our proposals.

3 Fees

3.1 We consulted on one-off application fees and annual periodic fees. The near-final rules are the same as those we consulted on.

Application fees

3.2 We proposed to incorporate benchmark administration into our existing structure of application fees. Firms will pay only one fee, for the highest category of benchmark applied for, however many benchmarks they intend to administer. Once authorised, they will not pay any additional fee for new benchmarks administered, but we will charge for each new application to endorse third country benchmarks.

- Complex application - £25,000: Administrators of critical benchmarks
- Moderately complex application - £5,000: Administrators of significant benchmarks, including all commodity and interest rate benchmarks which have not been designated as critical, and applications for recognition of third-country benchmark administrators
- Straightforward application - £1,500: Administrators of non-significant benchmarks and applications for endorsement of third-country benchmarks

3.3 When an authorised firm applies for a variation of permission (VoP) to undertake a new activity, we usually offer a discount to reflect the fact that we already have considerable information about its business. This information will not be relevant for the specific criteria required for approval of a benchmark administrator. Accordingly, we explained in CP17/17 that if a firm is already authorised by us it will not receive a discount if it applies to become a benchmark administrator. Similarly, a benchmark administrator will not receive any discount if it applies for other Part 4A permissions.

3.4 Benchmark administrators that are now authorised as administrators of specified benchmarks have already paid an application fee. This will be deducted from the amount due when they apply for authorisation under the BMR. We will not provide refunds if the original fee was higher than the current charge.

3.5 All respondents who commented on the application fees thought the proposals were reasonable.



Our response

Given the positive responses, we are maintaining our proposals as in the consultation.

Periodic fees

- 3.6** The periodic fees for administrators of specified benchmarks are based on income and we did not propose any changes to the definition. However, we did propose to reduce the minimum fee from £100,000 on incomes up to £3m to £1,095 on incomes up to £100,000. Benchmark administrators with incomes above this threshold would pay £1,095 plus the variable rate, which we will consult on as part of our annual consultation on FCA fee-rates for 2018/19 in the spring of 2018. Benchmark administrators authorised between January - March 2018 will not start to pay fees until 2018/19.

Transitional period

- 3.7** Some respondents said that since some firms will not be authorised during the transitional period, they won't be paying fees and the burden of cost recovery will fall on the firms that are authorised.
- 3.8** One respondent argued that existing administrators of specified benchmarks should continue to pay fees on the same basis as they do now and shouldn't be charged under the new structure until they are authorised.

Our response

Since the Directive allows benchmark administrators to trade during the transition period without being authorised, some will be able to defer their liability for fees. We have therefore modelled our fees to avoid firms paying a disproportionate share of the costs if they are authorised early. Fees during the transition period will be calculated from our estimate of the full population of firms and our running costs as anticipated in 2020. Consequently, we don't expect to recover our total costs during the transition and will decide in 2020 how to spread recovery of the accumulated costs. If more large firms are authorised early on, that will reduce the amount to be recovered later.

If we continued to charge the existing benchmark administrators on the same basis as we do now, that would disadvantage them, because they wouldn't benefit from the reduction in rates from pooling costs among a larger population of fee-payers.

Fees should not be based on gross income

- 3.9** Several respondents thought that the fees should be based on the costs of administration, on income net of costs, or a flat amount per benchmark or family of benchmarks. One suggested higher fees for administrators with critical benchmarks, to reflect the extra supervisory effort required.

Our response

We believe revenue is a fair measure of size and impact and a more reliable indicator than costs or profits. We set out our views in detail in CP16/33⁴ and CP17/12⁵. The cost of administration doesn't take account of the relative significance of the benchmarks, while a fee per benchmark or a flat fee ignores size and would be more favourable to the larger benchmarks. Our standard definition of income requires firms to report gross income rather than net. This promotes consistency by reducing the scope for interpretation.

Cap maximum fee

- 3.10** Some respondents said as well as a minimum fee, there should be a cap on the maximum to avoid disproportionate payments by the largest administrators.

Our response

Because we are recovering a fixed sum based on our costs, the level of those costs sets an upper bound on the amount we raise and on fees for any individual firm.

Definition of income

- 3.11** We did not consult on the definition of income, but several respondents raised questions about it.
- One suggestion was that we should not require administrators to report revenue from licensing a benchmark because marketing is not a regulated activity.
 - Another was that it may be difficult to estimate consistently the financial contribution of benchmarks towards the sales of other analytical products and services, especially where they are only a small element of a firm's business and the revenues from benchmarks may not be identified separately in the accounts.
 - Several firms sought clarification on distinguishing between global and UK revenues.
 - Our definition requires benchmark administrators to report revenues from sales and licensing of authorised benchmarks undertaken by other firms within the group. We received feedback that the complexity of the business models of other firms in the group could lead to inaccurate and inconsistent reporting.
 - Some respondents argued that they should report net income, not gross, allowing them to net off particular expenses which some administrators might incur but not others.

4 CP16/33, 'Regulatory fees and levies: policy proposals for 2017/18', FCA, 16 November 2016, www.fca.org.uk/publication/consultation/cp16-33.pdf

5 CP17/12, 'FCA regulated fees and levies: rates proposals 2017/18', FCA, 18 April 2017, www.fca.org.uk/publication/consultation/cp17-12.pdf



Our response

Our standard definition of income requires firms to report all revenues 'in respect of, or in relation to, the provision in the UK of the regulated activities.' This could include unregulated income if it is generated by the regulated activities. The definition includes a clarification for benchmark administrators that, where sales and marketing are undertaken by a separate legal entity, the administrator is responsible for identifying that income and reporting it as its own. This was included because we consider the marketability of a benchmark to be a measure of its importance to the market and therefore its relative supervisory importance. We want to avoid having a benchmark administrator that makes a modest income from marketing a specialist benchmark, used by a small number of customers, pay a higher fee than one which administers a widely used benchmark whose sales are handled by a different company (see detailed discussion in CP16/33).

The rules relate to the provision of regulated activities in the UK, so we are asking for revenue from UK sales only. We recognise that it can be difficult to separate out revenue streams based on FCA requirements. FEES 4 Annex 13 Part 1 therefore allows firms to apportion their income on the basis of a proportionate split of their business. It is for individual firms to decide how they should calculate the appropriate split. However, the guidance explains that they must be able, if challenged, to provide a sound rationale for their approach and an audit trail demonstrating that the methodology was agreed and periodically reviewed at an appropriate level. We believe this gives firms a pragmatic way to address the concerns raised. The requirement for an audit trail enables us to monitor the consistency of reporting.

Greater clarity on cost recovery in B fee-block

3.12 Two respondents asked for greater clarity on the funding requirement from benchmark administrators and the distribution of cost recovery from the different types of firm in the B fee-block.

Our response

The B fee-block has other sub-sets in addition to benchmark administrators, including recognised investment exchanges, operators of multilateral trading facilities and service companies. The distribution of the total funding requirement allocated within the B fee-block (£7.7m for 2017/18) takes account of the proportion of the total resources, covering all our functions, we have estimated will apply to each sub-set. The amount allocated to the benchmark administrator sub-set is recovered from the individual benchmark administrators on the basis of their size relative to each other as measured by the income from their activities as benchmark administrators. The larger the individual benchmark administrator, the greater the contribution they will make to recovering the costs allocated to that sub-set.



4 Application of Handbook requirements

- 4.1** As noted above, the BMR is a directly-applicable regulation that is mostly maximum harmonising. This chapter lists the parts of the Handbook that we are applying in addition to the BMR, including those covered in Chapters 2 and 3, and explains why we consider, after consultation, that they are required to enable us to supervise firms under the BMR and to enforce the BMR. Effective supervision and enforcement are required by the BMR, and they will help to ensure the integrity and reliability of benchmarks, which should in turn prevent harm to markets and consumers.

Guide for benchmark activities (BENCH)

- 4.2** The Handbook's Guide for benchmark activities (BENCH) is guidance, explaining what the requirements are for benchmark administrators, contributors and users, with references to the BMR and to applicable parts of the Handbook. Compared with the CP version, the final version of BENCH lists the Handbook parts that apply to benchmark administrators by virtue of their being administrators, rather than the longer list of Handbook parts that apply generally to the firms we supervise, and that could apply to a benchmark administrator that was also carrying on another regulated activity. We have also provided further guidance for benchmark users following the CP.

Basic requirements to enable effective supervision and enforcement

- 4.3** The following parts of the Handbook provide guidance about the way in which we will use our supervisory tools, and deal with various mechanics associated with the FCA being a supervisor of benchmark administrators.
- GEN – approval, emergency, interpretation of Handbook, statements about authorisation and use of FCA logo, payment of penalties
 - FEES
 - Glossary
 - MAR – TP1 - transitionals for existing specified benchmarks
 - SUP: 1A (use of tools), 2 (information gathering), 5 (skilled persons), 6 (VoPs and cancellation of permission, and forms), 7 (OIREQs and OIVOPs), 8 (Waivers), 9 (FCA guidance), 15B (Notifications under the BMR, and procedure for application for endorsement and recognition) and SUP TP10 (transitional provisions). We have not carried forward the proposal in the CP to use SUP to require administrators to send us their Annual Reports and Accounts.
 - DEPP, EG (specific proposals to be consulted on separately)

Supervised UK branches of third-country firms

- 4.4** The BMR imposes various obligations on “supervised entities” where they contribute input data to a benchmark. New MAR 8.4 will apply to UK branches of third-country firms that we supervise and that contribute to a benchmark (to the extent that they are not “supervised entities” for the purposes of the BMR). It will apply to them the rules that would apply if they were “supervised entities” (for the purposes of the BMR) contributing to a benchmark. The BMR does not apply the supervised contributor requirements to contributors to Annex II benchmarks, and our extension of the rule will not apply in relation to Annex II benchmarks.

Measures that provide guidance or procedural safeguards

- 4.5** Application of the following parts puts no obligations on firms, but gives helpful guidance or protection:
- MAR 1: Guidance to help navigate the EU Market Abuse Regulation and the way in which we will apply it. It does not add any requirements to that Regulation.
 - MAR 2.5: Stabilisation: if a BMR firm does something that complies with price stabilising rules, this deals with the circumstances in which it can benefit from existing statutory exemptions relating to market abuse.
 - MAR 8.8: Guidance giving a right to make representations against an FCA decision to compel a benchmarks administrator to continue to provide a benchmark, or to compel a contributor to provide input data to a benchmark. The BMR provides for compulsion decisions but contains no route to appeal the decision.

APR and SM&CR

- 4.6** The APR and SM&CR involve the application of the following parts of the Handbook:
- SYSC 4.5-4.9: Management responsibilities maps and allocation of responsibilities
 - SYSC 18.3.9G: Guidance stating that we will take account of whistle-blowing breaches when assessing fitness and propriety under the APR/SM&CR
 - SYSC 22: Regulatory references
 - COCON: Code of conduct (does not apply to firms that are regulated only by the FCA)
 - APER: Statements of Principle and Code of Practice for Approved Persons
 - FIT: The Fit and Proper test for Approved Persons and specified significant harm functions
 - SUP 10A: FCA Approved Persons
 - SUP 10C: FCA senior management regime for approved persons in relevant authorised persons



- 4.7** As discussed in Chapter 2, when we consult on extending the SM&CR to all administrators, we do not propose to include the Certification Regime, which substantially overlaps with the BMR. Otherwise, we think that the APR and SM&CR are important in establishing personal responsibility. The BMR is expressed in terms of actions that a firm must take or not take, but also requires competent authorities to have the power to impose sanctions in respect of natural persons. The APR and SM&CR will enable us to take action against responsible individuals.

Other parts of the Handbook

Principles for Business (PRIN, and SUP 15 – Notifications)

- 4.8** PRIN sets out the fundamental standards we expect all firms to meet. One of the major practical advantages of PRIN for supervision and enforcement in the BMR context is PRIN 11. This obliges a firm to deal with its regulators in an open and cooperative way and to disclose to the regulator anything relating to the firm of which the regulator would reasonably expect notice. Combined with the guidance in SUP 15 on the issues we want to be reported to us, this should help to ensure that firms volunteer information about breaches of the BMR or of the applicable parts of the Handbook.
- 4.9** Some of the eleven principles in PRIN that firms should follow are relevant to benchmark administrators (integrity, relations with regulators), some may overlap with the BMR (management and control, conflicts of interest), and some will generally be irrelevant (customers: relationships of trust, clients' assets). The principles are subject to a general carve-out if applying them would be a breach of EU law.
- Responsibility for benchmarks administration: MAR 8.5**
- 4.10** This requires each benchmark administrator to tell us which approved person is responsible for ensuring the firm implements its regulatory obligations (including under the BMR) in relation to its activities as a benchmark administrator. This will help ensure we are able to hold a senior individual accountable in the event of a breach of the BMR. We have clarified the scope of this requirement in the near-final rules, and we have clarified how this applies to Annex II administrators. We have also made some additional consequential changes to the Statement of Responsibilities form.
- Notification of suspected benchmark manipulation: MAR 8.5.7**
- 4.11** Article 14 of the BMR requires benchmark administrators (but not Annex II administrators) to have systems and controls to be able to detect and report to its competent authority behaviour that may imply manipulation of a benchmark. This guidance explains that the FCA expects administrators to pass on without delay all information they may receive from contributors about suspected manipulation.
- 4.12** Feedback showed that we did not make it clear in our consultation that this excluded Annex II administrators. All of the Annex II administrators objected, and we have now clarified its scope. No other respondents objected to the proposal.
- Prudential rules for administrators of critical benchmarks: MAR 8.5.8 to 8.5.14**
- 4.13** The prudential requirements will apply only to administrators of critical benchmarks. It is particularly important to reduce the risk of sudden cessation of these benchmarks. The BMR gives us power to require an administrator to continue to provide a critical benchmark. This would be futile if the administrator had no funds to continue. We consulted on this proposal and no one objected.

5 Other changes

- 5.1** This chapter explains two Handbook changes that we cannot currently make for technical reasons, and one that we plan to make and will consult on separately.

Responsibility for benchmark contribution

- 5.2** The consultation proposed to require a supervised contributor to a benchmark to inform us of the person responsible for the benchmark contribution activity. We have clarified the rule to make clear that it would not apply to contributors to Annex II benchmarks.
- 5.3** The provision requiring this cross-referred to the requirements for there to be such a person in the draft Regulatory Technical Standards (RTS), which we expect to become a Commission Regulation. As this Commission Regulation has not yet been made, the reference to the RTS has been removed. However, the substance of the requirement has not been changed.
- 5.4** When the Commission Regulation is made, and if it contains the same provision as in the draft RTS, we propose to amend the Handbook rule to include a cross-reference to the Commission Regulation and do not propose to re-consult on that (as we have already consulted on that through CP 17/17).

Extension to EEA administrators and contributors

- 5.5** We expected that the BMR, as with most EU financial services legislation, would be extended to the EEA, and we drafted our proposed rules on that basis. That extension has not yet happened, so we have limited the scope to the EU. If the BMR is extended to the EEA, we plan to amend the Handbook to match, without consulting again.

Supervised UK branches of third-country firms that use benchmarks

- 5.6** As noted in paragraph 4.4, we consulted on and intend to make a Handbook Rule to apply the BMR rules applicable to supervised contributors to UK branches of third-country firms that we supervise to the extent that the BMR does not already apply to them directly.
- 5.7** Similarly, we do not think that all branches of third country firms are caught by the BMR requirements on supervised users. We therefore intend to consult on a proposal to apply those requirements to UK branches of third country firms that we supervise to the extent that the BMR does not already apply to them directly. This will prevent such a branch from providing financial products based on non-approved benchmarks, when this would not be possible for a UK or other EU firm.
- 5.8** We propose to consult on such a rule separately.



Annex 1

List of non-confidential respondents

Thomson Reuters

Argus Media

ICIS

WMBA

S&P Global Platts

FTSE Russell

GFMA&ISDA

Bats Europe

MSCI

IHS Markit

BNY Mellon

Equity Release Council

Investment Association

Morningstar

London Metal Exchange

The ICE

Annex 2

Abbreviations used in this paper

APR	Approved Persons Regime
BMR	EU Benchmarks Regulation
Commission	European Commission
CP	Consultation Paper
ESMA	European and Securities Markets Authority
FSMA	Financial Services and Markets Act 2000
MCD	Mortgage Credit Directive
PRA	Price reporting agency
SI	Statutory Instrument
SM&CR	Senior Managers & Certification Regime
Short and long names of Handbook parts mentioned in this paper	
Glossary	Glossary of definitions
APER	Statements of Principle and Code of Practice for Approved Persons
BENCH	Guide for Benchmark Activities
COCON	Code of Conduct sourcebook
DEPP	Decision Procedure and Penalties Manual
DISP	Dispute Resolution: the Complaints sourcebook
EG	Enforcement Guide
FEES	Fees Manual
FIT	The Fit and Proper Test for Approved Persons and Specified significant harm functions
GEN	General Provisions



MAR	Market Conduct sourcebook
MCOB	Mortgages and Home Finance: Conduct of Business sourcebook
PRIN	Principles for Business
SUP	Supervision manual
SYSC	Senior Management Arrangements, Systems and Controls

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

Appendix 1

Final draft benchmarks application forms

Application for Authorisation

Application for Registration

Application for Recognition

Application to Endorse Benchmarks in a Third Country

Application for Authorisation

Benchmark Administrator Application Form

Full legal entity name of applicant firm

Important information you should read before completing this form

This Benchmark Administrator Application Form can be used to provide information:

1. required by EU Benchmark Regulation (Regulation(EU) 2016/1011)
2. to enable the FCA to process the application and prepare for the ongoing supervision of the firm (such as information relating to fees).

You must consider the following points when completing this form:

- Please ensure when providing policies and procedures that you consider Article 3 of the RTS (see notes on individual questions where this is relevant).
- When answering the questions throughout the application form please consider whether it should be answered on a family of benchmark level rather than an individual benchmark level (see Article 1 (2) of the RTS).
- If you are administering an interest rate or commodity benchmark, you may be subject to the requirements in Annex I/Annex II of the Regulation (EU) 2016/1011 respectively. These sometimes supplement the requirement of Title II of the Regulation, and sometimes they replace them. Your responses to the questions in this form should reflect where you are complying with a requirement of an Annex in addition to, or in substitution for, a provision in Title II.
- If you have benchmarks in two or three of the categories (Title II/Annex I/Annex II) please address all relevant requirements and clearly indicate where you have done so in the comments boxes provided.
- The notes that accompany this form will help you complete the questions. They also explain why we require the requested information and cross reference Annex I and Annex II requirements. Please see <https://www.fca.org.uk/publication/forms/benchmark-administrator-authorisation-notes.docx>

Please keep a copy of your completed forms and any supporting documents you include in your application pack for future reference.

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to us will be used to discharge our statutory functions under the Financial Services and Markets Act 2000 (FSMA) and other relevant legislation and may be disclosed to third parties for those purposes.

It is important that you provide accurate and complete information. Knowingly or recklessly giving the FCA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R (where applicable) require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FCA and to notify the FCA immediately if materially inaccurate information has been provided. If necessary, please take appropriate professional advice before supplying information to us.

Terms in this application pack

In this application pack we use the following terms:

- 'you' refers to the person(s) signing the form on behalf of the applicant firm
- 'the applicant firm' refers to the firm applying for authorisation
- 'we', 'us', 'our' or 'FCA' refers to the Financial Conduct Authority
- 'FSMA' refers to the Financial Services and Markets Act 2000
- 'the Regulation' refers to 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014
- 'RTS' means the draft Regulatory Technical Standards on the information to be provided in an application for authorisation and in an application for registration set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017 which is available here: https://www.esma.europa.eu/sites/default/files/library/esma70-145-48_-_final_report_ts_bmr.pdf
- 'Supervised Entity' has the meaning set out in the Regulation.
- 'Significant', 'Non-significant', and 'Critical' are terms used (and defined) in the Regulation to describe different categories of benchmark.
- 'Commodity benchmark', 'interest rate benchmark' and 'regulated data benchmark' have the same meanings as in the Regulation.
- 'Annex I benchmark' means an interest rate benchmark subject to Annex I of the Regulation.
- 'Annex II benchmark' means a commodity benchmark to which the requirements in Annex II to the Regulation apply as a result of Article 19 of the Regulation.

Filling in the form

- 1** If you are using your computer to complete the pack:
 - use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question
 - save all the parts of the pack you have completed and attach to your application
- 2** If you think a question is not relevant to you, write 'not applicable' and explain why.
- 3** If you leave a question blank or do not attach the required supporting information we may have to treat the application as incomplete. This will increase the time taken to assess your application.
- 4** If there is not enough space on the forms you may use separate sheets of paper. Clearly mark each separate sheet of paper with the relevant question number.
- 5** If you are relying on other documents to answer any questions in this form, please include a link/reference to the relevant information and indicate clearly in which specific section of the documentation the answer can be found. If this is not provided we will consider your application incomplete.
- 6** Please clearly annotate the content of the files uploaded to Connect and segregate Critical, Significant & Non Significant benchmark documentation. If you are attaching multiple policies and procedures or summaries, please pay particular attention to clear labelling and zip the files into as few folders as possible.
- 7** Ensure you have:
 - completed the Application for Authorisation
 - completed any Form As
 - completed the checklist form
 - attached any supporting documents
 - paid the application fee via Connect (please see the Connect pages for more information)
- 8** At the point of authorisation we expect the applicant firm to be ready, willing and organised to start business.

Contents

1 General Information	4
2 Organisational structure and governance	9
3 Conflicts of interest	15
4 Internal control structure, oversight and accountability framework	17
5 Description of benchmarks provided	20
6 Input data and methodology	23
7 Outsourcing	26
8 Additional information	27
9 Fees and Levies	33

1

General Information

This section is to be used to provide the information required under Paragraph 1 (General Information) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

Applicant firm names**1.1 Does the applicant firm intend to use any trading names in addition to the legal entity name given on the front of this form?**

- No
 Yes ▶ Give details below

Name

Legal Entity Identifier (LEI)**1.2 Applicant firm's LEI (if applicable).**

--

Address**1.3 Registered Office or other official address.**

In relation to a natural person, this should be an address in the country where that person is resident for tax purposes

Registered Office address	
Postcode	

Phone number (including STD code)	
-----------------------------------	--

Email address	
---------------	--

1.4 Does the applicant firm have a website address?

- No
 Yes, live ▶ Give address below
 Yes, being developed ▶ Give address (if known) and launch date below

Legal status of the applicant firm**1.5 What type of firm is the applicant firm?**

- Sole trader (or natural person) ▶ Continue to Question 1.12
 Private limited company
 Partnership (other than limited partnership or limited liability partnership)
 Limited liability partnership
 Public limited company
 Limited partnership
 Unincorporated association
 Other ▶ You must detail below the legal status of the applicant firm

1.6 Date of incorporation or formation (dd/mm/yyyy).
 / /
1.7 Where was the applicant firm incorporated or formed?

- England/ Wales
 Scotland
 Northern Ireland
 Outside the UK ▶ Give details below

Authorisation status

1.8 Is the applicant firm an FCA Authorised Person?

- Yes ▶ Continue to Question 1.15
 No

1.9 Is the applicant firm a "supervised entity", other than an FCA Authorised Person?

- Yes ▶ Give details below
 No ▶ Continue to Question 1.10

Current authorisation/ registered status

Name of regulator

Address of regulator

Applicant firms identification number with that regulator

The activities for which it is authorised

Legal Documents

1.10 You must attach the following:

- Certificate of incorporation Attached
 Copy of Partnership agreement deeds (if applicable) Attached
 Copy of Limited Liability Partnership agreement deeds (if applicable) Attached
 Copy of deed of incorporation, articles of association or other constitutional documents Attached

Group structure

1.11 Is the applicant firm a member of a group?

- No
 Yes ▶ You must provide an up-to-date group structure chart showing the links between any parent undertaking and subsidiaries. The undertakings and subsidiaries shown in the chart shall be identified by their full name, legal status and address of the registered office and head office).
 Attached

Operations

- 1.12 You must provide a description of the operations of the applicant firm in the European Union, whether or not subject to financial regulation, that are relevant for the activity of provision of benchmarks. Please also provide a description of where the above noted operations are conducted.**

Good repute

- 1.13 You must confirm that the applicant firm is of good repute.**

Yes

- 1.14 Please provide the following details in relation to the applicant firm:**

- **any proceedings of a disciplinary nature against it (unless dismissed)?**

No

Yes ▶ Give a full explanation of the events below.

- **any refusal authorisation or registration by a financial authority?**

No

Yes ▶ Give a full explanation of the events below.

- **any withdrawal authorisation or registration by a financial authority?**

No

Yes ▶ Give a full explanation of the events below.

Administering a Benchmark

As part of your Scope of Permission Notice you will be given 'Administering a Benchmark' permission.

1.15 You must confirm that the applicant firm requests permission to carry on this activity.

Yes

Details of professional advisers

1.16 Has the applicant firm used a professional adviser to help with this application?

No ▶ Continue to Section 2

Yes

1.17 Name of professional adviser's firm.

--

1.18 Do you want us to copy all correspondence to the professional adviser?

No ▶ Continue to Section 2

Yes

1.19 Name and contact details of professional adviser.

Title	
First name(s)	
Surname	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Email address	

2 Organisational structure and governance

This section and the Form A are to be used to provide the information required under Paragraph 2 (Organisational structure and governance) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation. .

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

Internal organisational structure

- 2.1 You must attach an organisational chart showing the internal organisational structure with respect to the board of directors, senior management committees, oversight function and any other internal body exercising significant management functions involved in the provision of the benchmarks.**

Attached

- 2.2 You must attach the terms of reference, or provide a summary below of the terms of reference applicable to the bodies listed above.**

Terms of reference attached

- 2.3 Please give details of how the applicant firm's board of directors, senior management committees, oversight function and any other internal body exercising significant management functions are going to adhere to any governance codes or similar provisions e.g. industry codes.**

Not applicable ▶ Give details why

- 2.4 You must attach the procedures for ensuring that the employees of the administrator and any other natural persons whose services are placed at its disposal or under its control and who are directly involved in the provision of a benchmark have the necessary skills, knowledge and experience for the duties assigned to them and operate in respect of the provisions under Article 4(7) of the Regulation.**

- Attached ▶ Continue to Question 2.6
 Not Applicable, Annex II Benchmark Administrator only ▶ Continue to Question 2.5

- 2.5 You must attach information to show how the applicant firm will comply with Annex II paragraph 9(a) of the Regulation.**

- Attached

- 2.6 How many employees (temporary and permanent) are involved in the provision of a benchmark(s) that the applicant firm administers or will administer?**

Controlled functions/Senior Managers

- 2.7 If you are an Annex II administrator or subject to SMR you must complete Question 2.7(b), all other firms must complete Question 2.7(a).**

- (a) You must provide the name of the director or senior manager who has been allocated responsibility for the firm's implementation of the applicable requirements of the regulatory system (including the benchmarks regulation) in relation to its activities as a regulated benchmark administrator.**

That director or senior manager must be performing an either FCA governing function (other than the non-executive director function) or the significant management function (see MAR 8.5.2R for more information). If this responsibility is shared, details of all relevant individuals should be provided.

- (b) You must provide the name of the most senior manager(s) responsible for ensuring that the firm satisfactorily implements the requirements of the Regulation (in accordance with paragraph 14(a) of Annex II to the Regulation).**

If you are a firm subject to the SMR, you may answer this question by including that responsibility above in the relevant senior manager's statement of responsibilities. If you have done that, please indicate that you have done so.

2.8 Is the applicant firm subject to APR or SMR?

- APR ▶ You must complete Questions 2.9 and 2.10
 SMR ▶ You must complete Questions 2.11 and 2.12

2.9 Who will perform the following controlled functions in the applicant firm? Provide their names in the table below.

Note that:

- A person may perform more than one controlled function.
- The applicant firm will not need to have all these controlled functions. You should refer to the notes to this supplement if you are unsure which ones are needed.
- You may use a separate sheet of paper if necessary.

If you have used separate sheets of paper, please indicate how many.

Number of additional sheets	
-----------------------------	--

Controlled function		Name of individual(s)
CF1	Director (depends on legal status of the applicant firm)	
CF2	Non-executive director (depends on legal status of the applicant firm)	
CF3	Chief executive (depends on legal status of the applicant firm)	
CF4	Partner (including members in a limited liability partnership) (depends on legal status of the applicant firm)	
CF5	Director of unincorporated association function	
CF6	Small friendly society function	
CF29	Significant management function	

2.10 You must fill in a 'Form A - Application to perform controlled functions under the approved persons regime' (https://www.handbook.fca.org.uk/form/sup/SUP_10A_ann_04_Loing_A_UK_20160321.pdf) for each person who will be performing a controlled function that you have listed in Question 2.9 and attach it to your application in Connect (unless this is a VOP and the individual already holds a governing function for the authorised firm).

How many 'Form As' are being sent with this application?

2.11 Who will perform the following senior managers functions in the applicant firm? Provide their names in the relevant table below.

Core Firms

Controlled function	Name of individual(s)
SMF1 Chief Executive function	
SMF3 Executive Director	
SMF9 Chairman	
SMF16 Compliance Oversight	
SMF17 Money Laundering Reporting	

Enhanced Firms

Controlled function	Name of individual(s)
SMF1 Chief Executive function	
SMF2 Chief Finance function	
SMF3 Executive Director	
SMF4 Chief Risk function	
SMF5 Head of Internal audit	
SMF6 Head of Key Business Area	
SMF7 Group Entity Senior Manager	
SMF9 Chairman	
SMF10 Chair of the Risk Committee	
SMF11 Chair of the Audit Committee	

Controlled function	Name of individual(s)
SMF12 Chair of the Remuneration Committee	
SMF13 Chair of the Nomination Committee	
SMF14 Senior Independent Director	
SMF16 Compliance Oversight	
SMF17 Money Laundering Reporting	
SMF18 Other overall responsibility function	
SMF24 Chief Operations Function	

2.12 You must fill in a 'Form A - Application to perform controlled functions under the senior managers regime' (https://www.handbook.fca.org.uk/form/sup/SUP_10C_ann_02_Long_A_NON-EEA_20170307.pdf) for each person who will be performing a Senior Manager Function that you have listed in Question 2.11 and attach it to your application in Connect (unless this is a VOP and the individual already holds a governing function for the authorised firm).

How many 'Form As' are being sent with this application?

You must also provide a Statement of Responsibilities (https://www.handbook.fca.org.uk/form/sup/SUP_10C_ann_5D_SOR_20160307.pdf) with each Form A and attach it to your application in Connect (unless this is a VOP for the authorised firm).

3 Conflicts of interest

This section is to be used to provide the information required under Paragraph 3 (Conflict of Interest) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

3.1 You must attach the policies and procedures that address:

3.1.1 how the current and potential conflicts of interest are or will be identified, recorded, managed, mitigated, prevented, disclosed and remedied.

Attached

Comments box for applicant firms who will administer an Annex I benchmark or an Annex II benchmark (see notes)

3.1.2 the controls put in place in respect of current or potential conflicts of interest, including the controls implemented through information systems, along with any other part of the conflicts of interest management framework.

Attached

Comments box for applicant firms who will administer an Annex I benchmark or an Annex II benchmark (see notes)

3.1.3 particular circumstances which apply to the applicant or to any particular benchmark provided by the applicant, in relation to which conflicts of interest are most likely arise, including where expert judgment or discretion is exercised in the benchmark's determination process, where the applicant is within the same group as a user of a benchmark and where the applicant is a participant in the market or economic reality that the benchmark intends to measure.

Attached

Comments box for applicant firms who will administer an Annex I benchmark or an Annex II benchmark (see notes)

3.2 If the applicant firm administers a critical benchmark you must attach an up-to-date inventory of actual, potential and material conflicts of interest along with the respective mitigation measures.

Attached

Comments box for applicant firms who will administer an Annex I benchmark or an Annex II benchmark (see notes)

3.3 If the applicant firm does not administer a critical benchmark you must attach a list of any material conflicts of interests identified, along with the respective mitigation measures for the benchmark or a family of benchmarks?

Attached

Comments box for applicant firms who will administer an Annex I benchmark or an Annex II benchmark (see notes)

3.4 You must provide details of the structure of the remuneration policy, specifying the criteria used to determine the remuneration of the persons involved directly or indirectly in the activity of provision of benchmarks.

4 Internal control structure, oversight and accountability framework

This section and the IT Forms are to be used to provide the information required under Paragraph 4 (Internal control structure, oversight and accountability framework) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation. .
- If you are administering a regulated-data benchmark certain Articles of the Regulation shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

4.1 If the applicant firm is a critical benchmark administrator, you must complete and attach a Detailed IT Controls Form.

- Attached
 Not Applicable, Applicant firm is not a critical benchmark administrator ▶ Continue to Question 4.2

Comments box if you need to give additional information

4.2 You must attach a copy of the policies and procedures for monitoring the activities of the provision of a benchmark or a family of benchmarks, including those relating to:

4.2.1 the information technology systems.

- Attached

Comments box if you need to give additional information

4.2.2 risk management, together with a mapping of risks which may arise and which may impact the accuracy, integrity and representativeness of the benchmarks provided or the continuity of the activity of provision, along with the respective mitigation measures.

Attached

Comments box if you need to give additional information

4.2.3 the constitution, role and functioning of the oversight function, as described in Article 5 of the Regulation and further specified in the draft regulatory technical standards on procedures and characteristics of the oversight function¹, including procedures for the appointment substitution or removal of individuals within the oversight function.

Attached

Not Applicable, Annex II Benchmark Administrator only

Comments box if you need to give additional information

4.2.4 the constitution, role and functioning of the control framework, as described in Article 6 of the Regulation, including procedures of the appointment, substitution or removal of individuals responsible for this framework.

Attached

Comments box if you need to give additional information

¹ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

4.2.5 the accountability framework as described in Article 7 of the Regulation, including procedures for the appointment, substitution or removal of individuals who are responsible for this framework.

Attached

Comments box if you need to give additional information

4.3 You must attach a copy of the policies and procedures of the fall-back systems and arrangements for determining and publishing a benchmark on a temporary basis.

Attached

Comments box if you need to give additional information

4.4 You must attach a copy of the policies and procedures for the internal reporting of infringements of the Regulation by managers, employees and any other natural persons who services are placed at the applicant's disposal or under the control of the applicant.

Attached

Comments box if you need to give additional information

5 Description of benchmarks provided

This section is to be used to provide the information required under Paragraph 5 (Description of benchmarks provided) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.
- If you are administering a regulated-data benchmark certain Articles of the Regulation shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

5.1 How many benchmarks or families of benchmarks will the applicant firm provide at the point of authorisation?

5.2 You must provide a description of each benchmark or family of benchmarks provided or that the applicant is intending to provide, including:

i) an indication of the type of benchmark, (the indication should be provided to the best of the applicant's knowledge, taking into the account the provisions of the Regulation.

ii) an indication of the sources used to determine the type of the benchmark.

5.3 You must provide a description of the underlying market or economic reality that the benchmark or family of benchmarks is intended to measure, along with an indication of the sources used to provide this description.

5.4 You must provide a description of contributors (where applicable) to the benchmark or family of benchmarks along with the code of conduct as described in Article 15 of the Regulation and for critical benchmarks, the identity of contributors (i.e. name and location) should also be included.

Code of Conduct attached

Not applicable ▶ The benchmark is not based on contributions or is a regulated-data benchmark.

5.5 You must provide information on measures to deal with corrections to the determination or publication of a benchmark or family of benchmarks.

5.6 You must provide information on the procedure to be undertaken by the administrator in the event of changes to or the cessation of a benchmark or a family of benchmarks in compliance with Article 28(1) of the Regulation.

Schedule of benchmarks

- 5.7 You must complete and attach to your application on Connect the Schedule of benchmarks. See <https://www.fca.org.uk/publication/forms/benchmark-schedule-form.xlsx>**

Completed and Attached

Exemptions

- 5.8 Is the applicant firm applying any exemptions at this stage?**

No ▶ Continue to Section 6

Not Applicable (only critical benchmark providers, Annex II benchmark administrators and Annex I interest rate benchmark administrators should chose this

option) ▶ Continue to Section 6

Yes ▶ You must detail the exemptions the applicant firm applying in the Schedule Benchmarks requested in Question 5.7

Completed and attached

You may also wish to complete and attach to your application on Connect the following Compliance Statements set out in the Annexes of the RTS if you are administering a significant or non-significant benchmarks:

Annex I of the Draft technical standards under the Benchmarks

Regulation (ESMA70-145-48): (for administrators of significant benchmarks) <https://www.fca.org.uk/publication/forms/benchmark-annex-i-compliance-statement.docx>

Annex II of the Draft technical standards under the Benchmarks

Regulation (ESMA70-145-48): (for administrators of non-significant benchmarks) <https://www.fca.org.uk/publication/forms/benchmark-annex-II-compliance-statement.docx>

Annex I ▶ Completed and Attached

Annex II ▶ Completed and Attached

6 Input data and methodology

This section is to be used to provide the information required under Paragraph 6 (Input data and methodology) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.
- If you are administering a regulated-data benchmark certain Articles of the Regulation shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

An applicant firm may decide to submit information in this section in the form of a summary for any non-significant benchmark it provides (see RTS Article 2.1)

Input Data

6.1 For each benchmark or family of benchmarks, you must attach policies and procedures with respect to input data including those relating to:

6.1.1 the type of input data used, their priority of use and any exercise of discretion or expert judgment.

Attached

Comments box if you need to give additional information

6.1.2 any processes for ensuring that input data is sufficient, appropriate and verifiable.

Attached

Comments box if you need to give additional information

6.1.3 the criteria that determine who may contribute input data to the administrator and the selection process of the contributors.

- Attached
 Not applicable ▶ The benchmark is a regulated-data benchmark.

Comments box if you need to give additional information

6.1.4 the evaluation of the contributor's input data and the process of validating input data.

- Attached
 Not applicable ▶ The applicant firm administers regulated-data benchmarks or non-significant benchmarks only

Comments box if you need to give additional information

Methodology

- 6.2 For each benchmark or family of benchmarks you must provide a description of the methodology highlighting the key elements of the methodology in accordance with Article 13 of the Regulation and further specified in the draft Regulatory Technical Standards specifying the information to be provided on the key elements of the methodology, the details of the internal review and the approval of a methodology and the procedures for consulting on any proposed material change in the benchmark administrator's methodology².**

Comments box if you need to give additional information

² Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

6.3 You must attach the policies and procedures with respect to the methodology including those relating to:

6.3.1 the measures taken to provide validation and review of the methodology, including any trials or back-testing performed.

Attached

Comments box if you need to give additional information

6.3.2 the consultation process on any proposed material change in the methodology.

Attached

Comments box if you need to give additional information

DRAFT

7 Outsourcing

This section is to be used to provide the information required under Paragraph 7 (Outsourcing) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II of the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

7.1 Are any activities forming a part of the process of administering a benchmark or family of benchmarks outsourced?

- No ▶ Continue to Section 8
 Yes

7.2 You must provide details of the outsourcing arrangements.

This must include the service-level agreements, which demonstrate compliance with Article 10 of the Regulation.

7.3 You must provide details of the outsourced functions (unless this information is already included in the relevant contracts).

7.4 You must attach the policies and procedures regarding the oversight of the outsourced activities.

- Attached

8

Additional information

This section is to be used to provide additional information that we need for domestic purposes, including information for surveillance purposes and the applicant firms' prudential category. You can also use this section to provide any additional information you consider relevant to your application in accordance with Paragraph 8 of the Annex to the RTS.

8.1 Is the applicant firm an Annex II benchmark administrator?

- No ▶ Continue to answer Questions 8.2-8.6 and then move to Question 8.8.
- Yes ▶ Continue to Question 8.7

Surveillance

8.2 You must describe the surveillance procedures and processes that the applicant firm uses in order to ensure the integrity of the benchmark. Please provide any supporting documentation.

8.3 You must provide details of any analysis that you may have undertaken that demonstrates how you have mitigated the potential market abuse risks that your benchmark could be susceptible to.

8.4 You must attach an organogram of the surveillance function.

- Attached

8.5 You must provide details of the escalation procedures that you have in place for reporting suspected market abuse, both internally to senior management and externally to the regulator.

8.6 You must provide details of any other market surveillance or monitoring processes that are appropriate to your application.

--

8.7 You must confirm that the applicant firm has established and will employ procedures to identify anomalous or suspicious transaction data and keep records of decisions to exclude transaction data from the administrator's benchmark calculation process.

Yes

Prudential Category

This section asks how the applicant firm will meet its financial resources/capital resources requirement

8.8 Is the applicant firm a critical benchmark administrator?

No ▶ Continue to Question 8.21

Yes

Financial resources

8.9 What type of firm is the applicant firm?

Limited company ▶ Continue to Question 8.10

Sole trader ▶ Continue to Question 8.12

Partnership ▶ Continue to Question 8.13

Limited liability partnership ▶ Continue to Question 8.14

Other ▶ Continue to Question 8.16

Limited Company

8.10 You must state the amounts of the different sources of the applicant firm's capital.

Please tick	Source	Amount
<input type="checkbox"/>	Fully paid-up ordinary shares	
<input type="checkbox"/>	Share premium account	
<input type="checkbox"/>	Preference shares (allowable if not redeemable within two years)	
<input type="checkbox"/>	(Audited) reserves *	
<input type="checkbox"/>	(Verified) interim net profits *	
<input type="checkbox"/>	Revaluation reserves	

Please tick	Source	Amount
<input type="checkbox"/>	Subordinated loans	
	Total	

*** Audit may not be required if exempt under the Companies Act 1985**

8.11 You must attach the following:

Companies House form SH01

- Attached
 Applicant firm not yet capitalised

Continue to Question 8.17

Sole trader

8.12 You must attach the following:

Statement of personal assets and liabilities (see notes) Attached
Statement of business assets and liabilities (see notes) Attached

Continue to Question 8.17

Partnership

8.13 You must attach the following:

Statement of personal assets and liabilities (see notes)
(one per partner) Attached
Statement of partnership business assets and liabilities (see notes)
(one only) Attached

Continue to Question 8.17

Limited Liability Partnership

8.14 You must state the amounts of the different sources of the applicant firm's capital.

Please tick	Source	Amount
<input type="checkbox"/>	Members' capital agreement	
<input type="checkbox"/>	Members' reserves	
<input type="checkbox"/>	Subordinated loan(s)	
	Total	

8.15 You must attach the following:

Members' capital agreement (see notes)

- Attached

Continue to Question 8.17

Other applicant firms

8.16 You must provide details of the applicant firm's constitution and the different sources of the applicant firm's capital.

--

Subordinated loans

8.17 Does the applicant firm have any subordinated loans?

- No ▶ Continue to Question 8.18
 Yes ▶ You must give details below of any subordinated loans

For subordinated loan agreement forms see IPRU (INV) Annex D Required Forms

If there is more than one subordinated loan you must use a separate sheet of paper.

If you have used separate sheets of paper you must indicate how many below.

Number of additional sheets	
-----------------------------	--

Name of loan provider	
-----------------------	--

Amount	
--------	--

Date of agreement	
-------------------	--

Nature of loan	
----------------	--

Repayment terms, including number of instalments and final payment date

--

Interest payable	%
------------------	---

Other funding

8.18 Does the applicant firm have other external funding?

- No ▶ Continue to Question 8.19
 Yes ▶ You must give details of other external funding

If the applicant firm has external funding but has not drawn down on the external funding, you must still answer the questions below.

If there is more than one source of external funding you must use a separate sheet of paper if required.

If you have used separate sheets of paper you must indicate how many below.

Number of additional sheets	
-----------------------------	--

Name of funding provider(s)	
-----------------------------	--

Amount	
--------	--

Nature of funding	
-------------------	--

Repayment terms, including number of instalments and final payment date

--

Interest payable	%
------------------	---

Other documents

8.19 All critical benchmark administrators must provide the following:

An opening balance sheet to demonstrate how the applicant firm will meet its financial resources requirement at the date of authorisation Attached

A forecast closing balance sheet for the first 12 months of trading Attached

A monthly cash flow forecast for the first 12 months of trading Attached

A monthly profit and loss forecast for the first 12 months of trading. As a minimum, the profit and loss forecast must disclose the following on a monthly basis:

a) gross income, analysed between regulated and un-regulated activities;

b) business expenditure, relevant annual expenditure, analysis of the major overheads expenditure; and

c) profit before taxation.

Monthly calculation of the applicant firm's financial resources/capital resources against its financial resources/capital resources requirement, demonstrating how the former meet the latter, projected over a 12 month period after authorisation. This must include working papers showing the assumptions on which the calculations are based. Attached

8.20 Is the applicant firm currently trading?

No ▶ Continue to Question 8.21

Yes ▶ You must provide the applicant firm's end of year accounts and up-to-date management accounts

Attached

Any additional information

8.21 Please provide details of any other information the applicant considers relevant to your application.

8.22 If you have not provided any of the requested information in this form, please specify which information you have not supplied and explain why you have not provided that information.

9

Fees and levies

This section is included to provide the applicant information on periodic fees and levies payable to the FCA.

FCA fees

9.1 Fee block B – Benchmark Administrators

How much annual income does the applicant firm estimate for the first year of authorisation in relation to the regulated activity of administering a benchmark?

Amount	£
Confirm amount in words	

Declaration of on-going FCA fees liability

- 9.2 You must confirm that the applicant firm understands that it is liable and remains liable to pay fees until such time as the FCA cancels its permission. This is irrespective of whether it is trading, or even if it has notified us of intention to cease trading or submitted an application to cancel.**

Yes

Application for Registration

Benchmark Administrator Application Form

Full legal entity name of applicant firm

Important information you should read before completing this form

This Benchmark Administrator Application Form can be used to provide information:

3. required by the EU Benchmark Regulation (Regulation (EU) 2016/1011)
4. to enable the FCA to process the application and prepare for the ongoing supervision of the firm (such as information relating to fees)

You must consider the following points when completing this form:

- Please ensure when providing policies and procedures that you consider Article 3 of the RTS (see notes on individual questions where this is relevant)
- When answering the questions throughout the application form please consider whether it should be answered on a family of benchmark level rather than an individual benchmark level (see Article 1(2) of the RTS)
- If you are administering a commodity or interest rate benchmark, you may be subject to the requirements in Annex I/Annex II of the Regulation (EU) 2016/1011. These sometimes supplement the requirement of Title II of the Regulations, and sometimes they replace them. Your responses to the questions in this form should reflect where you are complying with a requirement of an Annex in addition to, or in substitution for, a provision in Title II.
- If you have benchmarks in two or three of the categories (Title II/Annex I/Annex II) please address all relevant requirements and clearly indicate where you have done so in the comments boxes provided.
- The notes that accompany this form will help you complete the questions. They also explain why we require the requested information and cross reference Annex I and Annex II requirements. Please see <https://www.fca.org.uk/publication/forms/benchmark-administrator-registration-notes.docx>

Please keep a copy of your completed forms and any supporting documents you include in your application pack for future reference.

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to us will be used to discharge our statutory functions under the Financial Services and Markets Act 2000 (FSMA) and other relevant legislation and may be disclosed to third parties for those purposes.

It is important that you provide accurate and complete information. Knowingly or recklessly giving the FCA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and SUP 15.6.4R (where applicable) require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FCA and to notify the FCA immediately if materially inaccurate information has been provided. If necessary, please take appropriate professional advice before supplying information to us.

Terms in this application pack

In this application pack we use the following terms:

- 'you' refers to the person(s) signing the form on behalf of the applicant firm
- 'the applicant firm' refers to the firm applying for registration
- 'we', 'us', 'our' or 'FCA' refers to the Financial Conduct Authority
- 'FSMA' refers to the Financial Services and Markets Act 2000
- 'Regulation' refers to 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014
- 'Registration' refers to the process of registering as an administrator of a benchmark described under article 34 of the Regulation.
- 'RTS' means the draft Regulatory Technical Standards on the information to be provided in an application for authorisation and in an application for registration set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017 which is available here: [https://www.esma.europa.eu/sites/default/files/library/esma70-145-48 -
_final_report_ts_bmr.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-145-48_-_final_report_ts_bmr.pdf)
- 'Supervised Entity' has the meaning set out in the Regulation.
- 'Significant', 'Non-significant', and 'Critical' are terms used (and defined) in the Regulation to describe different categories of benchmark.
- 'Commodity benchmark', 'interest rate benchmark' and 'regulated data benchmark' have the same meanings as in the Regulation.
- 'Annex II benchmark' means a commodity benchmark to which the requirements in Annex II to the Regulation apply as a result of Article 19 of the Regulation.
- 'Annex I benchmark' means an interest rate benchmark subject to Annex I of the Regulation.

Filling in the form

- 1** If you are using your computer to complete the pack:
 - use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question
 - save all the parts of the pack you have completed and attach to your application
- 2** If you think a question is not relevant to you, write 'not applicable' and explain why.
- 3** If you leave a question blank or do not attach the required supporting information we may have to treat the application as incomplete. This will increase the time taken to assess your application.
- 4** If there is not enough space on the forms you may use separate sheets of paper. Clearly mark each separate sheet of paper with the relevant question number.
- 5** If you are relying on other documents to answer any questions in this form, please include a link/reference to the relevant information and indicate clearly in which specific section of the documentation the answer can be found. If this is not provided we will consider your application incomplete.
- 6** Please clearly annotate the content of the files uploaded to Connect and segregate Critical, Significant & Non Significant benchmark documentation. If you are attaching multiple policies and procedures or summaries, please pay particular attention to clear labelling and zip the files into as few folders as possible.
- 7** Ensure you have:
 - completed the Application for Registration
 - completed any Form As
 - completed the checklist form
 - attached any supporting documents
 - paid the application fee via Connect (please see the Connect pages for more information)
- 8** At the point of registration we expect the applicant firm to be ready, willing and organised to start business.

Contents

1 General Information	4
2 Organisational structure and governance	9
3 Conflicts of interest	15
4 Internal control structure, oversight and accountability	17
5 Description of benchmarks provided	20
6 Input data and methodology	23
7 Outsourcing	26
8 Additional information	28
9 Fees and Levies	30

1 General Information

This section is to be used to provide the information required under Paragraph 1 (General Information) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

Applicant firm names

1.1 Does the applicant firm intend to use any trading names in addition to the legal entity name given on the front of this form?

- No
 Yes ▶ Give details below

Name

Legal Entity Identifier (LEI)

1.2 Applicant firm's LEI (if applicable).

--

Addresses

1.3 Registered Office or other official address.

In relation to a natural person, this should be an address in the country where that person is resident for tax purposes

Registered Office address	
Postcode	

Phone number (including STD code)	
-----------------------------------	--

Email address	
---------------	--

1.4 Does the applicant firm have a website address?

- No
 Yes, live ▶ Give address below
 Yes, being developed ▶ Give address (if known) and launch date below

Legal status of the applicant firm**1.5 What type of firm is the applicant firm?**

- Sole trader (or natural person) ▶ Continue to Question 1.12
 Private limited company
 Partnership (other than limited partnership or limited liability partnership)
 Limited liability partnership
 Public limited company
 Limited partnership
 Unincorporated association
 Other ▶ You must detail below the legal status of the applicant firm

1.6 Date of incorporation or formation (dd/mm/yyyy).
 / /
1.7 Where was the applicant firm incorporated or formed?

- England/ Wales
 Scotland
 Northern Ireland
 Outside the UK ▶ Give details below

Authorisation status**1.8 Is the applicant firm an FCA Authorised Person?**

- Yes ▶ Continue to Question 1.15
 No

1.9 Is the applicant firm a "supervised entity", other than an FCA Authorised Person?

- Yes ▶ Give details below and continue to Question 1.11
 No ▶ Continue to Question 1.10

Current authorisation/ registered status

Name of regulator

Address of regulator

Applicant firm's identification number with that regulator

The activities for which it is authorised

Legal Documents

1.10 You must attach the following:

- Certificate of incorporation Attached
 Copy of Partnership agreement deeds (if applicable) Attached
 Copy of Limited Liability Partnership agreement deeds (if applicable) Attached
 Copy of deed of incorporation, articles of association or other constitutional documents Attached

Group structure

1.11 Is the applicant firm a member of a group?

- No
 Yes ▶ You must provide an up-to-date group structure chart showing the links between any parent undertaking and subsidiaries. The undertakings and subsidiaries shown in the chart shall be identified by their full name, legal status and address of the registered office and head office).
 Attached

Operations

1.12 You must provide a description of the operations of the applicant firm in the European Union, whether or not subject to financial regulation, that are relevant for the activity of provision of benchmarks. Please also provide a description of where the above noted operations are conducted.

Good repute

1.13 You must confirm that the applicant firm is of good repute

Yes

1.14 Please provide the following details in relation to the applicant firm:

- **any proceedings of a disciplinary nature against it (unless dismissed)?**

No

Yes ▶ Give a full explanation of the events below.

- **any refusal authorisation or registration by a financial authority?**

No

Yes ▶ Give a full explanation of the events below.

- **any withdrawal of authorisation or registration by a financial authority?**

No

Yes ▶ Give a full explanation of the events below.

Administering a Benchmark

As part of your Scope of Permission Notice you will be given an 'Administering a Benchmark' permission.

1.15 You must confirm that the applicant firm requests permission to carry on this activity.

Yes

Details of professional advisers

1.16 Has the applicant firm used a professional adviser to help with this application?

- No ▶ Continue to Section 2
 Yes

1.17 Name of professional adviser's firm.

--

1.18 Do you want us to copy all correspondence to the professional adviser?

- No ▶ Continue to Section 2
 Yes

1.19 Name and contact details of professional adviser.

Title	
First name(s)	
Surname	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Email address	

2 Organisational structure and governance

This section and the Form As are to be used to provide the information required under Paragraph 2 (Organisational structure and governance) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

Internal organisational structure

- 2.1 You must attach an organisational chart showing the internal organisational structure with respect to the board of directors, senior management committees, oversight function and any other internal body exercising significant management functions involved in the provision of the benchmarks.**

Attached

- 2.2 You must attach the terms of reference, or provide a summary below of the terms of reference applicable to the bodies listed above.**

Terms of reference attached

- 2.3 Please give details of how the applicant firm's board of directors, senior management committees, oversight function and any other internal body exercising significant management functions are going to adhere to any governance codes or similar provisions e.g. industry codes.**

Not applicable ▶ Give details why

2.4 You must attach the procedures for ensuring that the employees of the administrator and any other natural persons whose services are placed at its disposal or under its control and who are directly involved in the provision of a benchmark have the necessary skills, knowledge and experience for the duties assigned to them and operate in respect of the provisions under Article 4(7) of the Regulation.

Attached ▶ Continue to Question 2.6

Not Applicable, Annex II Benchmark Administrator only ▶ Continue to Question 2.5

2.5 You must attach information to show how the applicant firm will comply with Annex II paragraph 9(a) of the Regulation.

Attached

2.6 How many employees (temporary and permanent) are involved in the provision of a benchmark(s) that the applicant firm administers or will administer?

Not Applicable

Controlled functions/Senior Managers

2.7 If you are an Annex II administrator or subject to SMR you must complete Question 2.7(b), all other firms must complete Question 2.7(a).

(a) You must provide the name of the director or senior manager who has been allocated responsibility for the firm's implementation of the applicable requirements of the regulatory system (including the benchmarks regulation) in relation to its activities as a regulated benchmark administrator.

That director or senior manager must be performing an either FCA governing function (other than the non-executive director function) or the significant management function (see MAR 8.5.2R for more information). If this responsibility is shared, details of all relevant individuals should be provided.

(b) You must provide the name of the most senior manager(s) responsible for ensuring that the firm satisfactorily implements the requirements of the Regulation (in accordance with paragraph 14(a) of Annex II to the Regulation).

If you are a firm subject to the SMR, you may answer this question by including that responsibility above in the relevant senior manager's statement of responsibilities. If you have done that, please indicate that you have done so.

2.8 Is the firm subject to APR or SMR?

- APR ▶ You must complete Questions 2.9 and 2.10
- SMR ▶ You must complete Questions 2.11 and 2.12

2.9 Who will perform the following controlled functions in the applicant firm? Provide their names in the table below.

Note that:

- A person may perform more than one controlled function.
- The applicant firm will not need to have all these controlled functions. You should refer to the notes to this supplement if you are unsure which ones are needed.
- You may use a separate sheet of paper if necessary.

If you have used separate sheets of paper, please indicate how many.

Number of additional sheets	
-----------------------------	--

Controlled function		Name of individual(s)
CF1	Director (depends on legal status of the applicant firm)	
CF2	Non-executive director (depends on legal status of the applicant firm)	
CF3	Chief executive (depends on legal status of the applicant firm)	
CF4	Partner (including members in a limited liability partnership) (depends on legal status of the applicant firm)	
CF5	Director of unincorporated association function	
CF6	Small friendly society function	
CF29	Significant management function	

2.10 You must fill in a 'Form A - Application to perform controlled functions under the approved persons regime' (https://www.handbook.fca.org.uk/form/sup/SUP_10A_ann_04_Loing_A_UK_20160321.pdf) for each person who will be performing a controlled function that you have listed in Question 2.8 and attach it to your application in Connect (unless this is a VOP and the individual already holds a governing function for the authorised firm).

How many 'Form As' are being sent with this application?

2.11 Who will perform the following senior manager's functions in the applicant firm? Provide their names in the relevant table below.

Core Firms

Controlled function	Name of individual(s)
SMF1 Chief Executive function	
SMF3 Executive Director	
SMF9 Chairman	
SMF16 Compliance Oversight	
SMF17 Money Laundering Reporting	

Enhanced Firms

Controlled function	Name of individual(s)
SMF1 Chief Executive function	
SMF2 Chief Finance function	
SMF3 Executive Director	
SMF4 Chief Risk function	
SMF5 Head of Internal audit	
SMF6 Head of Key Business Area	
SMF7 Group Entity Senior Manager	
SMF9 Chairman	
SMF10 Chair of the Risk Committee	
SMF11 Chair of the Audit Committee	
SMF12 Chair of the Remuneration Committee	

Controlled function	Name of individual(s)
SMF13 Chair of the Nomination Committee	
SMF14 Senior Independent Director	
SMF16 Compliance Oversight	
SMF17 Money Laundering Reporting	
SMF18 Other overall responsibility function	
SMF24 Chief Operations Function	

2.12 You must fill in a 'Form A - Application to perform controlled functions under the senior managers regime' (https://www.handbook.fca.org.uk/form/sup/SUP_10C_ann_02_Long_A_NON-EEA_20170307.pdf) for each person who will be performing a Senior Manager Function that you have listed in Question 2.11. This should be attached to your application in Connect (unless this is a VOP and the individual already holds a governing function for the authorised firm).

How many 'Form As' are being sent with this application?

You must also provide a Statement of Responsibilities (https://www.handbook.fca.org.uk/form/sup/SUP_10C_ann_5D_SOR_20160307.pdf) with each Form A. These should be attached to your application in Connect.

3 Conflicts of interest

This section is to be used to provide the information required under Paragraph 3 (Conflict of Interest) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

For applicants providing only non-significant benchmarks, a summary may be provided for Questions 3.1.1-3.1.3 in the relevant box below instead of the full policies and procedures.

If the applicant firm will administer an Annex I benchmark or an Annex II benchmark (see notes) please use the boxes provided for your comments.

3.1 You must attach the policies and procedures that address:

3.1.1 how the current and potential conflicts of interest are or will be identified, recorded, managed, mitigated, prevented, disclosed and remedied.

Attached

Comments box if you need to give additional information

3.1.2 the controls put in place in respect of current or potential conflicts of interest, including the controls implemented through information systems, along with any other part of the conflicts of interest management framework.

Attached

Comments box if you need to give additional information

3.1.3 particular circumstances which apply to the applicant or to any particular benchmark provided by the applicant, in relation to which conflicts of interest are most likely arise, including where expert judgment or discretion is exercised in the benchmark's determination process, where the applicant is within the same group as a user of a benchmark and where the applicant is a participant in the market or economic reality that the benchmark intends to measure.

Attached

Comments box if you need to give additional information

3.2 Unless the applicant firm is only providing non-significant benchmarks you must attach an up-to-date inventory of material conflicts of interest along with the mitigation measures.

Attached

N/A ▶ Applicant firm is only providing non-significant benchmarks

Comments box if you need to give additional information

3.3 You must provide details of the structure of the remuneration policy, specifying the criteria used to determine the remuneration of the persons involved directly or indirectly in the activity of provision of benchmarks.

4 Internal control structure, oversight and accountability framework

This section is to be used to provide the information required under Paragraph 4 (Internal control structure, oversight and accountability framework) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.
- If you are administering a regulated-data benchmark certain Articles of the Regulation shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

4.1 You must attach a copy of the policies and procedures for monitoring the activities of the provision of a benchmark or a family of benchmarks, including those relating to:

For questions 4.1.1-4.1.5, applicants who are administering a non-significant benchmark only, a summary may be provided in the boxes below instead of the full policies and procedures.

4.1.1 the information technology systems.

Attached

Comments box if you need to give additional information

4.1.2 risk management, together with a mapping of risks which may arise and which may impact the accuracy, integrity and representativeness of the benchmarks provided or the continuity of the activity of provision, along with the respective mitigation measures.

Attached

Comments box if you need to give additional information

4.1.3 the constitution, role and functioning of the oversight function, as described in Article 5 of the Regulation and further specified in the draft regulatory technical standards on procedures and characteristics of the oversight function³, including procedures for the appointment substitution or removal of individuals within the oversight function.

Attached

Not Applicable, Annex II benchmark administrator only

Comments box if you need to give additional information

4.1.4 the constitution, role and functioning of the control framework, as described in Article 6 of the Regulation, including procedures of the appointment, substitution or removal of individuals responsible for this framework.

Attached

Comments box if you need to give additional information

4.1.5 the accountability framework as described in Article 7 of the Regulation, including procedures for the appointment, substitution or removal of individuals who are responsible for this framework.

Attached

Comments box if you need to give additional information

4.2 You must attach a copy of the policies and procedures of the fall-back systems and arrangements for determining and publishing a benchmark on a temporary basis.

For applicants who are administering a non-significant benchmark only, a summary may be provided in the box below instead of the full policies and procedures.

Attached

Comments box if you need to give additional information

³ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

4.3 You must attach a copy of the policies and procedures for the internal reporting of infringements of the Regulation by managers, employees and any other natural persons who services are placed at the applicant's disposal or under the control of the applicant.

For applicants who are administering a non-significant benchmark only, a summary may be provided in the box below instead of the full policies and procedures.

Attached

Comments box for additional information

DRAFT

5 Description of benchmarks provided

This section is to be used to provide the information required under Paragraph 5 (Description of benchmarks provided) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.
- If you are administering a regulated-data benchmark certain Articles of the Regulation shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

5.1 How many benchmarks or families of benchmarks will the applicant firm provide at the point of registration?

The answers given below in Questions 5.2-5.6 can be in summary form for non-significant benchmarks. However if the applicant is providing significant benchmarks, full answers must be given in relation to those significant benchmarks.

5.2 You must provide a description of each benchmark or family of benchmarks provided or that the applicant is intending to provide, including:

(i) an indication of the types of benchmark (the indication should be provided to the best of the applicant firm's knowledge, taking into account the provisions of the Regulation)

(ii) an indication of the sources used to determine the type of the benchmark

- 5.3 You must provide a description of the underlying market or economic reality that each benchmark or family of benchmarks is intended to measure, along with an indication of the sources used to provide this description.**

- 5.4 You must provide a description of contributors (where applicable) to the benchmark or family of benchmarks along with the code of conduct as described in Article 15 of the Regulation.**

- Code of Conduct attached
 Not applicable ▶ The benchmark is a regulated-data benchmark, is not based on contributions or is an Annex II benchmark

- 5.5 You must provide information on measures to deal with corrections to the determination or publication of a benchmark or family of benchmarks.**

- 5.6 You must provide information on the procedure to be undertaken by the administrator in the event of changes to or the cessation of a benchmark or a family of benchmarks in compliance with Article 28(1) of the Regulation.**

Schedule of benchmarks

- 5.7 You must complete and attach to your application on Connect the Schedule of benchmarks. See <https://www.fca.org.uk/publication/forms/benchmark-schedule-form.xlsx>**

- Completed and Attached

Exemptions

5.8 Is the applicant firm applying any exemptions at this stage?

- No ▶ Continue to Section 6
- Not Applicable (only Annex II benchmark administrators and Annex I administrators should chose this option) ▶ Continue to Section 6
- Yes ▶ You must detail the exemptions the applicant firm applying in the Schedule of Benchmarks requested in Question 5.7.
 - Completed and attached

You may also wish to complete and attach to your application on Connect the following Compliance statements if you are administering non-significant benchmarks:

Annex I of the Draft technical standards under the Benchmarks

Regulation (ESMA70-145-48): (for administrators of significant benchmarks) <https://www.fca.org.uk/publication/forms/benchmark-annex-i-compliance-statement.docx>

Annex II of the Draft technical standards under the Benchmarks

Regulation (ESMA70-145-48): (for administrators of non-significant benchmarks) <https://www.fca.org.uk/publication/forms/benchmark-annex-II-compliance-statement.docx>

- Annex I ▶ Completed and Attached
- Annex II ▶ Completed and Attached

6 Input data and methodology

This section is to be used to provide the information required under Paragraph 6 (Input data and methodology) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II to the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II to that Regulation.
- If you are administering a regulated-data benchmark certain Articles of the Regulation (shall apply and some shall not apply, as specified in Article 17. Your responses to the questions in this form should reflect where you are complying with these requirements.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

Input Data

6.1 For each benchmark or family of benchmarks, you must attach the policies and procedures with respect to input data including those relating to:

6.1.1 the type of input data used, their priority of use and any exercise of discretion or expert judgment.

If the applicant firm is administering non-significant benchmarks you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only.

Attached

Comments box if you need to give additional information

6.1.2 any processes for ensuring that input data is sufficient, appropriate and verifiable.

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only. If the applicant has non-significant benchmarks, it may choose not to provide the summary for the input data being verifiable but it must provide the summary for the input data being sufficient and appropriate.

Attached

Comments box if you need to give additional information

6.1.3 the criteria that determine who may contribute input data to the administrator and the selection process of the contributors.

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only.

Attached

Not applicable ▶ The benchmark is a regulated-data benchmark (or is not based on contributions).

Comments box if you need to give additional information

6.1.4 the evaluation of the contributor's input data and the process of validating input data.

If the applicant firm is administering non-significant benchmarks only you are not required to provide this information. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only.

Attached

Not applicable ▶ The applicant firm administers regulated-data benchmarks or non-significant benchmarks only

Comments box if you need to give additional information

Methodology

- 6.2 For each benchmark or family of benchmarks you must provide a description of the methodology highlighting the key elements of the methodology in accordance with Article 13 of the Regulation and further specified in the draft Regulatory Technical Standards specifying the information to be provided on the key elements of the methodology, the details of the internal review and the approval of a methodology and the procedures for consulting on any proposed material change in the benchmark administrator's methodology⁴.**

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only.

Comments box if you need to give additional information

- 6.3 You must attach the policies and procedures with respect to the methodology including those relating to:**

6.3.1 the measures taken to provide validation and review of the methodology, including any trials or back-testing performed.

Attached

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only.

Comments box if you need to give additional information

6.3.2 the consultation process on any proposed material change in the methodology.

If the applicant firm is administering non-significant benchmarks only you are not required to provide this information. If the applicant firm is administering significant and non-significant benchmarks it can provide the information only for the significant benchmarks.

Attached

Comments box if you need to give additional information

⁴ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

7 Outsourcing

This section is to be used to provide the information required under Paragraph 7 (Outsourcing) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Please note that:

- Interest rate benchmarks are subject to Annex I to the Regulation. That annex supplements and, in some cases, replaces the requirements of Title II of the Regulation.
- Except where Article 19 of the Regulation provides that Title II applies, the administration and contribution of input data to commodity benchmarks is subject to the requirements of Annex II to the Regulation instead of Title II of that Regulation.

If you administer an Annex I benchmark or an Annex II benchmark, your responses to the questions in this form should reflect where you are complying with a requirement of Annex I or II in addition to, or in substitution for, a provision in Title II.

7.1 Are any activities forming part of the process of administering a benchmark or family of benchmarks outsourced?

- No ▶ Continue to Section 8
 Yes

7.2 You must provide details of the outsourcing arrangements unless the applicant firm is administering non-significant benchmarks only, in which case you are not required to provide this information. If the applicant firm is administering significant and non-significant benchmarks it can provide the information for its significant benchmarks only.

This must include the service-level agreements, which demonstrate compliance with Article 10 of the Regulation

- Not applicable ▶ The applicant firm administers non-significant benchmarks only

7.3 You must provide details of the outsourced functions (unless this information is already included in the relevant contracts).

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only

7.4 You must attach the policies and procedures regarding the oversight of the outsourced activities.

If the applicant firm is administering non-significant benchmarks only you can provide a summary of the procedures. If the applicant firm is administering significant and non-significant benchmarks it can provide the information in the form of a summary for its non-significant benchmarks only

Attached

8

Additional information

This section is to be used to provide additional information that we need for domestic purposes, including information for surveillance purposes. You can also use this section to provide any additional information you consider relevant to your application in accordance with Paragraph 8 of the Annex to the RTS.

8.1 Is the applicant firm an Annex II benchmark administrator?

- No ▶ Continue to answer Questions 8.2-8.6 and then move to Question 8.8.
- Yes ▶ Continue to Question 8.7

Surveillance

8.2 You must describe the surveillance procedures and processes that the applicant firm uses in order to ensure the integrity of the benchmark. Please provide any supporting documentation.

8.3 You must provide details of any analysis that you may have undertaken that demonstrates how you have mitigated the potential market abuse risks that your benchmark could be susceptible to.

8.4 You must attach an organogram of the surveillance function

- Attached

8.5 You must provide details of the escalation procedures that you have in place for reporting suspected market abuse, both internally to senior management and externally to the regulator.

8.6 You must provide details of any other market surveillance or monitoring processes that are appropriate to your application.

8.7 You must confirm that the applicant firm has established and will employ procedures to identify anomalous or suspicious transaction data and keep records of decisions to exclude transaction data from the administrators benchmark calculation process.

Yes

Any additional information

8.8 Please provide details of any other information the applicant considers relevant to your application.

8.9 If you have not provided any of the requested information in this form, please specify which information you have not supplied and explain why you have not provided that information.

9

Fees and Levies

This section is included to provide the applicant information on periodic fees and levies payable to the FCA.

FCA fees

9.1 Fee block B – Benchmark Administrators

How much annual income does the applicant firm estimate for the first year of registration in relation to the regulated activity of administering a benchmark?

Amount	£
Confirm amount in words	

Declaration of on-going FCA fees liability

- 9.2 You must confirm that the applicant firm understands that it is liable and remains liable to pay fees until such time as the FCA cancels its permission. This is irrespective of whether it is trading, or even if it has notified us of intention to cease trading or submitted an application to cancel.**

Yes

Application for Recognition

Benchmark Administrator Application Form

Full legal entity name of applicant firm

Important information you should read before completing this form

This Benchmark Administrator Application Form can be used to provide information:

5. required by EU Benchmark Regulation (Regulation (EU) 2016/1011)
6. to enable the FCA to process the application and prepare for the ongoing supervision of the firm (such as information relating to fees).

You must consider the following points when completing this form:

- Please ensure when providing policies and procedures that you consider Article 3 of the RTS (see notes on individual questions where this is relevant).
- If you are not providing the required information in any of the questions you must indicate why you have not done so in Question 7.9 (see Article 1(3) of the RTS).

Please keep a copy of your completed forms and any supporting documents you include in your application pack for future reference.

The notes that accompany this form will help you complete the questions. They also explain why we require the requested information. Please see <https://www.fca.org.uk/publication/forms/benchmark-administrator-recognition-notes.docx>

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to us will be used to discharge our statutory functions under the Financial Services and Markets Act 2000 (FSMA) and other relevant legislation and may be disclosed to third parties for those purposes.

It is important that you provide accurate and complete information. Knowingly or recklessly giving the FCA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). If necessary, please take appropriate professional advice before supplying information to us.

Terms in this application pack

In this application pack we use the following terms:

- 'you' refers to the person(s) signing the form on behalf of the applicant firm
- 'the applicant firm' refers to the firm applying for recognition
- 'we', 'us', 'our' or 'FCA' refers to the Financial Conduct Authority
- 'FSMA' refers to the Financial Services and Markets Act 2000
- 'Regulation' refers to 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014
- 'Recognition' refers to an administrator located in a 3rd country. See Article 32 of BMR and RTS relating to recognition.
- 'RTS' means the draft Regulatory Technical Standards on the information to be provided in an application for authorisation and in an application for registration set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017 which is available here: https://www.esma.europa.eu/sites/default/files/library/esma70-145-48_-_final_report_ts_bmr.pdf

Filling in the form

- 1** If you are using your computer to complete the pack:
 - use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question
 - save all the parts of the pack you have completed and attach to your application
- 2** If you think a question is not relevant to you, write 'not applicable' and explain why.
- 3** If you leave a question blank or do not attach the required supporting information we may have to treat the application as incomplete. This will increase the time taken to assess your application.
- 4** If there is not enough space on the forms you may use separate sheets of paper. Clearly mark each separate sheet of paper with the relevant question number.
- 5** If you are relying on other documents to answer any questions in this form, please include a link/reference to the relevant information and indicate clearly in which specific section of the documentation the answer can be found. If this is not provided we will consider your application incomplete.
- 6** Ensure you have:
 - completed the Application for Recognition
 - completed the checklist form
 - attached any supporting documents, and
 - paid the application fee via Connect (please see the Connect pages for more information)

Contents

1 General Information	3
2 Legal representative in the member state of reference	9
3 Organisational structure and governance	11
4 Conflicts of interest	12
5 Internal control structure, oversight and accountability framework	13
6 Outsourcing	15
7 Other information	16
8 Information on the benchmarks	18
9 Input data and methodology	21
10 Fees and levies	22
11 Application fee	24
12 Declaration and signatures	25

1 General Information

This section is to be used to provide the information required under Paragraph 1 (General Information) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Applicant firm name

1.1 Does the applicant firm intend to use any trading names in addition to the legal entity name given on the front of this form?

- No
 Yes ▶ Give details below

Name	
------	--

Legal Entity Identifier (LEI)

1.2 Applicant firm's LEI (if applicable).

--

Contact for this application

1.3 Contact details of the person we will get in touch with about this application.

Title	
First names	
Surname	
Job title	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Fax number (including STD code)	
Email address	

Address

1.4 Registered Office or other official address.

In relation to a natural person, this should be an address in the country where that person is resident for tax purposes

Principal place of business address	
Postcode	

Phone number (including STD code)	
-----------------------------------	--

Email address	
---------------	--

Legal status of the applicant firm

1.5 What type of firm is the applicant firm?

- Sole trader (or natural person) ▶ Continue to Question 1.8
 Private limited company
 Partnership (other than limited partnership or limited liability partnership)
 Limited liability partnership
 Public limited company
 Limited partnership
 Unincorporated association
 Other ▶ You must detail below the legal status of the applicant firm

--

1.6 Date of incorporation or formation (dd/mm/yyyy)

		/			/				
--	--	---	--	--	---	--	--	--	--

1.7 Where was the applicant firm incorporated or formed?

--

Website address

1.8 Does the applicant firm have a website address?

- No
 Yes, live ▶ Give address below
 Yes, being developed ▶ Give address (if known) and launch date below

--

Authorisation status

1.9 Is the applicant firm currently supervised in the third country?

- No
 Yes ▶ Give details below of the regulator in the third country.

Current authorisation/ registered status

Name of regulator

Link to the register of the regulator (if available)

Address of regulator

Applicant firms identification number with that regulator (FRN if previously regulated by us)

The activities for which it is authorised

If supervised by more than one regulator in the third country, please give details below

Current authorisation/ registered status

Name of regulator

Link to the register of the regulator (if available)

Address of regulator

Applicant firms identification number with that regulator (FRN if previously regulated by us)

The activities for which it is authorised, if different

If supervised by more than one regulator, give details of the respective areas of competence

Operations

- 1.10 You must provide a description of the operations of the applicant firm in the European Union and/or in third countries, whether or not subject to any EU or extra-EU regulation, that are directly related to the activity of provision of benchmarks.**

DRAFT

Group structure

1.11 Is the applicant firm a member of a group?

- No
- Yes ▶ You must provide an up-to-date group structure chart showing the links between any parent undertaking and subsidiaries. The undertakings and subsidiaries shown in the chart shall be identified by their full name, legal status and address of the registered office and head office).
- Attached

Good repute

1.12 You must confirm that the applicant firm is of good repute.

- Yes

1.13 Please provide the following details in relation to the applicant firm:

- any proceedings of a disciplinary nature against the applicant firm (unless dismissed).

- No
- Yes ▶ Give a full explanation of the events below.

- any refusal authorisation or registration by a financial authority.

- No
- Yes ▶ Give a full explanation of the events below.

- any withdrawal of authorisation or registration by a financial authority.

- No
- Yes ▶ Give a full explanation of the events below.

Details of professional advisers

1.14 Has the applicant firm used a professional adviser to help with this application?

- No ▶ Continue to Section 2
- Yes

1.15 Name of professional adviser's firm.

--

1.16 Do you want us to copy all correspondence to the professional adviser?

- No ▶ Continue to Section 2
 Yes

1.17 Name and contact details of professional adviser.

Title	
First name(s)	
Surname	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Email address	

2 Legal representative in the member state of reference

This section is to be used to provide the information required under Paragraph 2 (Legal representative in the member state of reference) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

2.1 You must attach documented evidence supporting the choice of the Member State of reference, by application of the criteria laid down in Article 32(4) of Regulation.

Attached

2.2 You must provide details below of the applicant firm's legal representative in the Member State of reference.

Title or Legal Status	
Full Name	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Email address	

2.3 You must attach the following to your application for the legal representative.

Deed of incorporation, Articles of association or other constitutional documents, in case of a legal person and clarification of whether it is supervised by a supervisory authority.

Written confirmation that the legal representative has the authority to act on behalf of the applicant in accordance with Article 32(3) of Regulation.

2.4 Where applicable, you must provide details of the role of the legal representative in the oversight function relating to the provision of benchmarks that may be used in the Union.

--

- 2.5 This question applies to the extent that the administrator is subject to Annex II to the Benchmarks Regulation (in accordance with article 19 of the Regulation) rather than Title II. You must provide details of the role of the legal representative and the arrangements that are in place to enable the legal representative to act on behalf of the administrator vis-à-vis the authorities and any other person in the Union with regard to the administrator's obligations under this Regulation.**

--

- 2.6 Name and contact details of contact person within the legal representative.**

Title	
First name(s)	
Surname	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Email address	

3 Organisational structure and governance

This section is to be used to provide the information required under Paragraph 3 (Organisational structure and governance) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Internal organisational structure

- 3.1 You must provide details of the internal organisational structure with respect to the board of directors, senior management committees, oversight function and any other internal body exercising significant management functions involved in the provision of the benchmark.**

- 3.2 You must attach the terms of reference, or provide a summary below of the terms of reference applicable to the bodies listed above.**

Terms of reference attached

- 3.3 Please give details of how the applicant firm's board of directors, senior management committees, oversight function and any other internal body exercising significant management functions are going to adhere to any governance codes or similar provisions e.g. industry codes.**

- 3.4 You must attach the procedures for ensuring that the employees of the administrator and any other natural persons whose services are placed at its disposal or under its control and who are directly involved in the provision of a benchmark have the necessary skills, knowledge and experience for the duties assigned to them and operate in respect of the provisions under Article 4(7) of the Regulation.**

Attached

- 3.5 How many employees (temporary and permanent) are involved in the provision of a benchmark(s) that the applicant firm administers or will administer?**

4

Conflicts of interest

This section is to be used to provide the information required under Paragraph 4 (Conflicts of interest) to the Annex of the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

4.1 You must attach the policies and procedures that address:

4.1.1 how the current and potential conflicts of interest are or will be identified, recorded, managed, mitigated, prevented, disclosed and remedied.

Attached

4.1.2 the controls put in place in respect of current or potential conflicts of interest, including the controls implemented through information systems, along with any other part of the conflicts of interest management framework.

Attached

4.1.3 particular circumstances which apply to the applicant or to any particular benchmark provided by the applicant, in relation to which conflicts of interest are most likely arise, including where expert judgment or discretion is exercised in the benchmark's determination process, where the applicant is within the same group as a user of a benchmark and where the applicant is a participant in the market or economic reality that the benchmark intends to measure.

Attached

4.2 You must provide details of the structure of the remuneration policy, specifying the criteria used to determine the remuneration of the persons involved directly or indirectly in the activity of provision of benchmarks.

5

Internal control structure, oversight and accountability framework

This section is to be used to provide the information required under Paragraph 5 (Internal control structure, oversight and accountability framework) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

5.1 You must attach a copy of the policies and procedures for monitoring the activities of the provision of a benchmark or a family of benchmarks, including those relating to:

5.1.1 the information technology systems.

Attached

5.1.2 risk management, together with a mapping or risks which may arise and which may impact the accuracy, integrity and representativeness of the benchmarks provided or the continuity of the activity of provision, along with the respective mitigation measures.

Attached

5.1.3 the constitution, role and functioning of the oversight function, as described in Article 5 of Regulation and further specified in the draft regulatory technical standards on the procedures and characteristics of the oversight function⁵ or the corresponding IOSCO Principles for financial benchmarks for Price Reporting Agencies, as applicable, including procedures for the appointment substitution or removal of individuals within the oversight function.

Attached

5.1.4 the constitution, role and functioning of the control framework, as described in Article 6 of Regulation or the corresponding IOSCO Principles for financial benchmarks for Price Reporting Agencies, as applicable, including procedures of the appointment, substitution or removal of individuals responsible for this framework.

Attached

5.1.5 the accountability framework as described in Article 7 of Regulation or the corresponding IOSCO Principles for financial benchmarks for Price Reporting Agencies, as applicable, including procedures for the appointment, substitution or removal of individuals who are responsible for this framework.

Attached

⁵ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

5.2 You must attach a copy of the policies and procedures of the fall-back systems and arrangements for determining and publishing a benchmark on a temporary basis.

Attached

5.3 You must attach a copy of the procedures for the internal reporting of infringements of Regulation by managers, employees and any other natural persons who services are placed at the provider's disposal or under the control of the provider.

Attached

DRAFT

6 Outsourcing

This section is to be used to provide the information required under Paragraph 6 (Outsourcing) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

6.1 Are any activities forming a part of the process of administering a benchmark or family of benchmarks outsourced?

- No ▶ Continue to Section 7
 Yes

6.2 You must provide details of the outsourcing arrangements.

This must include the service-level agreements, which demonstrate compliance with Article 10 of the Regulation or with the corresponding IOSCO Principles for financial benchmarks or the corresponding IOSCO Principles for Price Reporting Agencies, as applicable.

6.3 You must provide details of the outsourced functions (unless this information is already included in the relevant contracts).

6.4 You must attach the policies and procedures regarding the oversight of the outsourced activities.

- Attached

7 Other information

This section is to be used to provide additional information that we need for domestic purposes, including information for surveillance purposes. You can also use this section to provide any additional information you consider relevant to your application in accordance with Paragraph 7 of the Annex to the RTS.

Supporting documents

- 7.1 If the applicant firm has an assessment by an independent external auditor of compliance with the IOSCO Principles for financial benchmarks or for Price Reporting Agencies, please attach it to your application.**

- Attached
 Not applicable

- 7.2 If the applicant firm is subject to supervision in its home country and has certification attesting compliance with the IOSCO Principles for financial benchmarks or for Price Reporting Agencies from the applicant firm's home country regulator, please attach it to your application.**

- Attached
 Not applicable

Surveillance

- 7.3 You must describe the surveillance procedures and processes that the applicant firm uses in order to ensure the integrity of the benchmark. Please provide any supporting documentation.**

- 7.4 You must provide details of any analysis that you may have undertaken that demonstrates how you have mitigated the potential market abuse risks that your benchmark could be susceptible to.**

- 7.5 You must attach an organogram of the surveillance function.**

- Attached

7.6 You must provide details of the escalation procedures that you have in place for reporting suspected market abuse, both internally to senior management and externally to the regulator.

7.7 You must provide details of any other market surveillance or monitoring processes that are appropriate to your application.

Any additional information

7.8 Please provide details of any other information the applicant considers relevant to your application.

7.9 If you have not provided any of the requested information in this form, please specify which information you have not supplied and explain why you have not provided that information.

8

Information on the benchmarks

This section is to be used to provide the information required under Paragraph 8 (Description of the actual or prospective benchmarks or families of benchmarks that may be used in the union) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

- 8.1 You must complete and attach to your application on Connect the Schedule of benchmarks specifying whether they are already used or where they are intended to be marketed for use in the Union and, where available, their ISINs. See <https://www.fca.org.uk/publication/forms/benchmark-schedule-form-recognition.xlsx>**

Completed and attached

- 8.2 You must provide a description of the benchmark or family of benchmarks provided and that are already used in the Union, including a description of the underlying market or economic reality that the benchmark or the family of benchmarks is intended to measure, along with an indication of the sources used to provide these descriptions, and a description of contributors, if any, to this benchmark or family of benchmarks.**

- 8.3 You must provide a description of the benchmark or family of benchmarks that are intended to be marketed for its use in the Union, including a description of the underlying market or economic reality that the benchmark or the family of benchmarks is intended to measure, along with an indication of the sources used to provide these descriptions, and a description of contributors, if any, to this benchmark or family of benchmarks.**

- 8.4 You must attach any documented evidence that a benchmark or family of benchmarks described under Questions 8.2 and 8.3 may be considered regulated-data benchmarks, according to the definition set out in Article 3(1)(24) of Regulation , and is thus entitled to the exemptions listed by Article 17(1) for the same Regulation.**

Attached

Not applicable

8.5 You must attach documented evidence that a benchmark or family of benchmarks described under Questions 8.2 and 8.3 may be considered commodity benchmarks, according to the definition set out in Article 3(1)(23) of Regulation, and that it is not based on submissions by contributors the majority of which are supervised entities, along with any evidence of the implementation of the special regime requirements as set out by Article 19 and Annex II of the Regulation or the corresponding IOSCO Principles for Price Reporting Agencies.

- Attached
 Not applicable

8.6 You must attach any documented evidence that a benchmark or family of benchmarks described under Questions 8.2 and 8.3 may be considered interest-rate benchmarks, according to the definition set out in Article 3(1)(22) of Regulation, along with evidence of the implementation of the special regime requirements as set out by Article 18 and Annex I of the regulation.

- Attached
 Not applicable

8.7 You must attach any documented evidence that a benchmark or family of benchmarks described in Question 8.2 has a degree of use within the Union territory which qualifies that benchmark or all the benchmarks included in the family of benchmarks either as significant benchmarks as defined in Article 3.1(26) of Regulation or as non-significant benchmarks, as defined in Article 3(1)(27) of Regulation. The information to be provided shall be determined, to the extent possible, on the basis of the provisions in Commission Delegated Regulation supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed (https://ec.europa.eu/info/sites/info/files/benchmarks-regulation-level-2-measures-full_en.pdf) that make reference to the third-country benchmarks, within the Union, including in the event of an indirect reference to any such benchmark within a combination of benchmarks.

- Attached
 Not applicable

8.8 You must attach the rationale behind the administrator's application of any of the exemptions listed under Article 25(1), for significant benchmarks, and Article 26(1), for non-significant benchmarks, of Regulation in respect of the benchmark, the information shall be presented, to the extent possible, on the basis of the format established by the draft Implementing Technical Standards (the ITS) to develop a template for compliance statements to be used by administrators of significant and non-significant benchmarks⁶.

Template in Annex I of the ITS ▶ Completed and attached <https://www.fca.org.uk/publication/forms/benchmark-annex-i-compliance-statement.docx>

Template in Annex II of the ITS ▶ Completed and attached <https://www.fca.org.uk/publication/forms/benchmark-annex-II-compliance-statement.docx>

Not applicable

8.9 You must provide information on measures to deal with corrections to a benchmark determination or publication.

8.10 Please provide information on the procedure to be undertaken by the provider in the event of changes to or the cessation of a benchmark, in compliance with Article 28(1) of the Regulation or the corresponding IOSCO Principles for financial benchmarks or for Price Reporting Agencies as applicable.

⁶ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

9

Input data and methodology

This section is to be used to provide the information required under Paragraph 9 (Input Data and Methodology) of the Annex to the RTS, in addition to related information that we need for domestic purposes.

As such, please refer to the Annex of the RTS when completing this section and satisfy yourself that you have provided all the information specified.

Input Data

- 9.1 For each benchmark or family of benchmarks, you must attach policies and procedures with respect to input data including those relating to:**
- 9.1.1 the type of input data used, their priority of use and any exercise of discretion or expert judgment.**
 Attached
- 9.1.2 any processes for ensuring that input data is sufficient, appropriate and verifiable.**
 Attached
- 9.1.3 the criteria that determine who may contribute input data to the administrator and the selection process of the contributors.**
 Attached
- 9.1.4 the evaluation of the contributor's input data and the process of validating input data.**
 Attached

Methodology

- 9.2 For each benchmark or family of benchmarks you must provide a description below of the methodology highlighting the key elements of the methodology in accordance with Article 13 of the Regulation and further specified in the draft Regulatory Technical Standards specifying the information to be provided on the key elements of the methodology, the details of the internal review and the approval of a methodology and the procedures for consulting on any proposed material change in the benchmark administrator's methodology⁷.**

⁷ Set out in the Final Report: Draft technical standards under the Benchmarks Regulation (ESMA70-145-48) published by ESMA and dated 30 March 2017.

9.3 You must attach the policies and procedures with respect to the methodology including those relating to:

9.3.1 the measures taken to provide validation and review of the methodology, including any trials or back-testing performed.

Attached

9.3.2 the consultation process on any proposed material change in the methodology.

Attached

DRAFT

10 Fees and levies

This section is included to provide the applicant information on periodic fees payable to the FCA.

The UK entity (*third country legal representative*) that applies for recognition of a third-country benchmark administrator will be liable for an annual fee. We do not require the applicant to provide income data for fees as this will be a fixed rate fee in accordance with the applicable requirements in FEES in the FCA Handbook.

See [link to be inserted when rules are in force]

DRAFT

11

Application fee

Here, we give details about the application fee and how to pay it. You must send a cheque for the appropriate application fee in full with this application pack, otherwise the application will not be processed.

Payment Method

Payment is by cheque. The application fee is not refundable.

How to pay

- 1 Make the cheque payable to The Financial Conduct Authority. We cannot accept post-dated cheques.
- 2 Write the name of the applicant on the back of the cheque.
- 3 Write 'Application for Recognition' on the back of the cheque.
- 4 Send the cheque with this Application.

Application fee

11.1 You must confirm you have enclosed the fee for your application.

£5000

12 Declaration and signatures

Declaration

Knowingly or recklessly, giving the FCA information that is false or misleading in a material particular may be a criminal offence (see sections 398 and 400 of the Financial Services and Markets Act 2000). Even if you believe or know that information has been provided to the FCA before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the FCA will itself identify such information during the assessment of this application.

There will be a delay in processing the application if information is inaccurate or incomplete, and if the information is inaccurate, that may call into question whether the applicant meets the requirements of the EU Benchmark Regulation (including but not limited to taking disciplinary/ Enforcement action). You must notify the FCA immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the FCA is reasonably likely to consider the information material).

I/We confirm that the information provided in this application is accurate and complete to the best of my/our knowledge and that I/we have read the notes to this Form. I/We will notify the FCA immediately if there is a material change to the information provided.

I/We authorise the FCA to make such enquiries and seek such further information as it thinks necessary to identify and verify information that it considers relevant to the assessment of this application.

These checks may include credit reference checks or information pertaining to fitness and propriety. I/We are aware that the results of these enquiries may be disclosed to the firm/employer/applicant.

Where the signatory to this application has provided an address, the signatory agrees that the FCA may use such address as the proper address for service as defined in Financial Services and Markets Act 2000 (Service of Notice) Regulations (SI 2001/1420) to serve any notices on that signatory.

I/We understand that the FCA may require the applicant firm to provide further information or documents at any time.

I/We confirm that I am/We are authorised to sign this form on behalf of the applicant firm.

I/We confirm that individuals are aware that, for the purpose of complying with the Data Protection legislation, personal data may be used by the FCA to discharge its statutory functions and in accordance with the Data Protection Act, and otherwise will not be disclosed for other purposes without the permission of the relevant individual.

In addition to other regulatory responsibilities, firms and (where applicable) approved persons have a responsibility to disclose to the FCA matters of which it would reasonably expect to be notified. Failure to notify the FCA of such information may lead to the FCA taking disciplinary or other action against the firm and/or individuals.

I am/We are aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

Name of signatory

Signature

Date (dd/mm/yyyy)

<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	---	----------------------	----------------------	---	----------------------	----------------------	----------------------	----------------------

DRAFT

Application to Endorse Benchmarks in a Third Country

Legal name of applicant firm

FRN of applicant firm (if applicable)

Who can use this form?

A benchmark administrator located in the **UK** and authorised or registered in accordance with Article 34, or any other supervised entity located in the European Union with a UK presence and regulated by a UK authority with a clear and well-defined role within the control or accountability framework of a third country administrator, which is able to monitor effectively the provision of a benchmark, may apply to us as the relevant competent authority to endorse a benchmark or a family of benchmarks provided in a third country for their use in the European Union.

Important information you should read before completing this form

This Application to Endorse Benchmarks in a Third Country Form can be used to provide information:

7. required by Article 33 of the EU Benchmark Regulation (Regulation (EU) 2016/1011)
8. to enable the FCA to process the application and prepare for the ongoing supervision of the firm

Please keep a copy of your completed forms and any supporting documents you include in your application pack for future reference.

The notes that accompany this form will help you complete the questions. They also explain why we require the requested information. See <https://www.fca.org.uk/publication/forms/benchmark-administrator-endorsement-notes.docx>

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to us will be used to discharge our statutory functions under the Financial Services and Markets Act 2000 (FSMA) and other relevant legislation and may be disclosed to third parties for those purposes.

It is important that you provide accurate and complete information. Knowingly or recklessly giving the FCA information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). If necessary, please take appropriate professional advice before supplying information to us.

Terms in this application pack

In this application pack we use the following terms:

- 'you' refers to the person(s) signing the form on behalf of the applicant endorsing administrator or other supervised entity
- the 'applicant' refers to the endorsing administrator or other supervised entity in the Union that is seeking to endorse third country benchmarks. The actual provider of the benchmarks, located in the third country, is not the applicant
- 'we', 'us', 'our' or 'FCA' refers to the Financial Conduct Authority
- 'FSMA' refers to the Financial Services and Markets Act 2000
- 'the Regulation' refers to 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014
- 'third country' refers to a country that is not an EU Member State

Filling in the form

- 1 If you are using your computer to complete the pack:
 - use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question
 - save all the parts of the pack you have completed and attach to your application
- 2 If you think a question is not relevant to you, write 'not applicable' and explain why.
- 3 If you leave a question blank or do not attach the required supporting information we may have to treat the application as incomplete. This will increase the time taken to assess your application.
- 4 If there is not enough space on the forms you may use separate sheets of paper. Clearly mark each separate sheet of paper with the relevant question number.
- 5 Ensure you have:
 - completed the Application to Endorse Benchmarks in a Third Country form
 - attached any supporting documents
 - signed the declaration in Section 3
 - paid the application fee via Connect (please see the Connect pages for more information)

When you are required to attach supporting documents (e.g. list of benchmarks) to your application, failure to do so will mean we will have to treat the application as incomplete. This will increase the time taken to assess your application.

Contents

1 Details about this application	3
2 Fees and levies	6
3 Declaration	7

1

Details about this application

This section is to be used to provide the information required under Article 33 of the EU Benchmark Regulation 2016/1011.

As such, please refer to the Regulation when completing this section and satisfy yourself that you have provided all the information specified.

Details of the endorsing administrator or supervised entity**1.1 Registered Office or other official address of the endorsing administrator or supervised entity.**

Business address		
Postcode		
Phone number (including STD code)		
Email address		

1.2 Head Office of the endorsing administrator or supervised entity.

Business address		
Postcode		
Phone number (including STD code)		
Email address		

1.3 Name of authority by which the administrator or supervised entity is regulated.

--

1.4 Does the applicant firm have the permission to administer a benchmark?

- Yes
 No

Details of the third country benchmark administrator

1.5 Name of the 3rd country benchmark administrator.

--

1.6 Business address of 3rd country benchmark administrator.

Business address	
Postcode	

Phone number (including STD code)	
-----------------------------------	--

Email address	
---------------	--

Registered address of 3rd country benchmark administrator.

Business address	
Postcode	

Phone number (including STD code)	
-----------------------------------	--

Email address	
---------------	--

Details of the endorsement

1.7 You must complete and attach a Schedule of Benchmarks detailing the benchmarks or families of benchmarks you wish to endorse.

See <https://www.fca.org.uk/publication/forms/benchmark-schedule-form-endorsement.xlsx>

Attached

1.8 You must describe the applicant firm's role within the control or accountability framework of the third country administrator, which is able to monitor effectively the provision of a benchmark.

--

1.9 You must confirm the third country benchmark administrator fulfils requirements that are at least as stringent as the Regulation.

Attached

1.10 Please explain how the applicant firm is able to demonstrate on an on-going basis that the provision of the benchmark or family of benchmarks to be endorsed fulfils requirements which are at least as stringent as the requirements of the Regulation.

1.11 You must explain how the applicant firm has the necessary expertise to monitor effectively the activity of the provision of the benchmark in a third country and will manage the associated risks on an on-going basis.

1.12 You must provide the objective reason to provide the benchmark or family of benchmarks in a third country for their use in the Union.

2

Fees and levies

This section is included to provide the applicant information on periodic fees payable to the FCA.

The UK entity (*benchmark endorser*) that applies for an endorsement of a third-country benchmark will be liable for an annual fee. We do not require the applicant to provide data as this will be a fixed rate fee in accordance with FEES 4 Annex 15 of the FCA Handbook.

See [link to be inserted when rules are in force]

DRAFT

3 Declaration

Knowingly or recklessly, giving the FCA information that is false or misleading in a material particular may be a criminal offence (see sections 398 and 400 of the Financial Services and Markets Act 2000). Even if you believe or know that information has been provided to the FCA before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the FCA will itself identify such information during the assessment of this application.

There will be a delay in processing the application if information is inaccurate or incomplete, and if the information is inaccurate, that may call into question whether the applicant meets the requirements of the EU Benchmark Regulation (including but not limited to taking disciplinary/ Enforcement action). You must notify the FCA immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the FCA is reasonably likely to consider the information material).

I/We confirm that the information provided in this application is accurate and complete to the best of my/our knowledge and that I/We have read the notes to this Form. I/We will notify the FCA immediately if there is a material change to the information provided.

I/We authorise the FCA to make such enquiries and seek such further information as it thinks necessary to identify and verify information that it considers relevant to the assessment of this application.

These checks may include credit reference checks or information pertaining to fitness and propriety. I/We are aware that the results of these enquiries may be disclosed to the firm/employer/applicant.

Where the signatory to this application has provided an address, the signatory agrees that the FCA may use such address as the proper address for service as defined in Financial Services and Markets Act 2000 (Service of Notice) Regulations (SI 2001/1420) to serve any notices on that signatory.

I/We understand that the FCA may require the applicant firm to provide further information or documents at any time.

I/We confirm that I am/We are authorised to sign this form on behalf of the applicant firm

I/We confirm that individuals are aware that, for the purpose of complying with the Data Protection legislation, personal data may be used by the FCA to discharge its statutory functions and in accordance with the Data Protection Act, and otherwise will not be disclosed for other purposes without the permission of the relevant individual.

In addition to other regulatory responsibilities, firms and (where applicable) approved persons have a responsibility to disclose to the FCA matters of which it would reasonably expect to be notified. Failure to notify the FCA of such information may lead to the FCA taking disciplinary or other action against the firm and/or individuals.

I am/We are aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the

disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

Name of signatory

Signature

Date (dd/mm/yyyy)

<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	---	----------------------	----------------------	---	----------------------	----------------------	----------------------	----------------------

DRAFT



Appendix 2

Near-final rules (legal instrument)

BENCHMARKS REGULATION AMENDMENT INSTRUMENT 2018

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in:
- (1) the Financial Services and Markets Act 2000 (the “Act”):
 - (a) section 55U (Applications under this Part);
 - (b) section 59 (Approval for particular arrangements);
 - (c) section 60 (Applications for approval);
 - (d) section 60A (Vetting candidates by relevant authorised persons);
 - (e) section 61 (Determination of applications);
 - (f) section 62A (Changes to responsibilities of senior managers);
 - (g) section 63E (Certification of employees by relevant authorised persons);
 - (h) section 63F (Issuing certificates);
 - (i) section 64A (Rules of conduct);
 - (j) section 137A (The FCA’s general rules);
 - (k) section 137T (General supplementary powers);
 - (l) section 138D (Action for damages);
 - (m) section 139A (Power of the FCA to give guidance);
 - (n) section 213 (The compensation scheme);
 - (o) section 214 (General);
 - (p) section 226 (Compulsory jurisdiction); and
 - (q) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
 - (2) [Article X of the Financial Services and Markets Act (2000) (Benchmarks) Regulations 2018].
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [XXX] 2018 except:
- (1) FEES 4 which comes into force on 1 April 2018; and
 - (2) Part 2 of Annex I which comes into force on 1 July 2018.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
-----	-----

Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Code of Conduct sourcebook (COCON)	Annex C
Threshold Conditions (COND)	Annex D
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex E
The Fit and Proper test for Approved Persons and specified significant harm functions (FIT)	Annex F
General Provisions (GEN)	Annex G
Fees manual (FEES)	Annex H
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex I
Market Conduct sourcebook (MAR)	Annex J
Supervision manual (SUP)	Annex K
Dispute Resolution: Complaints (DISP)	Annex L
Credit Unions sourcebook (CREDS)	Annex M
General guidance on Benchmark Administration, Contribution and Use (BENCH)	Annex N
The Perimeter Guidance manual (PERG)	Annex O

- E. The General guidance on Benchmark Submission and Administration (BENCH) module of the FCA's Handbook of rules and guidance is renamed the General guidance on Benchmark Administration, Contribution and Use.

Notes

- F. In the Annexes to this instrument, the "notes" (indicated by "**Note:**") are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Benchmarks Regulation Amendment Instrument 2018.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>administering a benchmark</i>	the <i>regulated activity</i> specified in article 63OA of the <i>Regulated Activities Order</i> , which, in summary, means acting as the administrator of a benchmark as defined in article 3.1(3) of the <i>benchmarks regulation</i> ;
<i>Annex II benchmark administrator</i>	a <i>regulated benchmark administrator</i> (P) which is subject to the requirements of Annex II to the <i>benchmarks regulation</i> in accordance with Article 19 of that regulation (but only to the extent that P is subject to those requirements).
<i>benchmark</i>	a benchmark as defined in article 3.1(3) of the <i>benchmarks regulation</i> .
<i>benchmark activities</i>	the following activities: <ol style="list-style-type: none"> (1) the <i>regulated activity</i> of <i>administering a benchmark</i>; or (2) <i>contributing input data</i> to a <i>BMR benchmark administrator</i>. <p style="margin-left: 40px;">Note: <i>contributing input data</i> to a <i>BMR benchmark administrator</i> is not a <i>regulated activity</i>.</p>
<i>benchmark contributor</i>	<ol style="list-style-type: none"> (1) a <i>third country benchmark contributor</i>; or (2) a <i>UK benchmark contributor</i>. <p>Note: neither acting as a <i>benchmark contributor</i> nor <i>contributing input data</i> to a <i>BMR benchmark administrator</i> is a <i>regulated activity</i>.</p>
<i>benchmark endorser</i>	a <i>person</i> : <ol style="list-style-type: none"> (1) whose endorsement of a <i>benchmark</i> or family of <i>benchmarks</i> has been authorised by the <i>FCA</i> in accordance with article 33(3) of the <i>benchmarks regulation</i>; and (2) who has not had that authorisation withdrawn by the <i>FCA</i>.
<i>benchmarks regulation</i>	Regulation (EU) No. 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.

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1011>)

<i>BMR benchmark administrator</i>	<p>a <i>person</i> who:</p> <ol style="list-style-type: none"> (1) is an administrator as defined in article 3.1(6) of the <i>benchmarks regulation</i> (which in summary is a <i>person</i> who has control over the provision of a <i>benchmark</i>); and (2) has been authorised or registered (whether in the <i>UK</i> or elsewhere) in accordance with article 34 of the <i>benchmarks regulation</i>.
<i>commodity benchmark</i>	has the meaning in article 3.1(23) of the <i>benchmarks regulation</i> .
<i>contribution of input data</i>	<p>the contribution of input data as defined in article 3.1(8) of the <i>benchmarks regulation</i>.</p> <p>Note: <i>contributing input data</i> is not a <i>regulated activity</i>.</p>
<i>critical benchmark</i>	has the meaning in article 3.1(25) of the <i>benchmarks regulation</i> .
<i>interest rate benchmark</i>	has the meaning in article 3.1(22) of the <i>benchmarks regulation</i> .
<i>located</i>	<p>in relation to administrators (as defined in the <i>benchmarks regulation</i>), <i>benchmark contributors</i> and <i>supervised entities</i> means:</p> <ol style="list-style-type: none"> (1) in relation to a legal <i>person</i>, the country where that <i>person's</i> registered address or other official address is situated; (2) in relation to a natural <i>person</i>, the country where that <i>person</i> is resident for tax purposes.
<i>non-significant benchmark</i>	has the meaning in article 3.1(27) of the <i>benchmarks regulation</i> .
<i>regulated benchmark administrator</i>	a <i>person</i> who has a <i>Part 4A permission</i> to carry on the <i>regulated activity</i> of <i>administering a benchmark</i> .
<i>regulated- data benchmark</i>	has the meaning in article 3.1(24) of the <i>benchmarks regulation</i> .
<i>significant benchmark</i>	has the meaning in article 3.1(26) of the <i>benchmarks regulation</i> .
<i>supervised entity</i>	has the meaning in article 3.1(17) of the <i>benchmarks regulation</i> .
<i>third country benchmark</i>	a <i>firm</i> which:

contributor

- (1) *contributes input data* to a *BMR benchmark administrator*;
- (2) is *located* in a non-*EU* state; and
- (3) either
 - (a) is a *supervised entity*; or
 - (b) would be a *supervised entity* if it were *located* in the *EU*.

third country legal representative

a *person* who acts as the legal representative of a benchmark administrator for the purposes of article 32(3) of the *benchmarks regulation*.

UK benchmark contributor

a *firm* which:

- (1) *contributes input data* to a *BMR benchmark administrator*;
- (2) is *located* in the *UK*; and
- (3) is a *supervised entity*.

Amend the following definitions as shown. Underlining indicates new text and striking through indicates deleted text.

competent authority

...

- (11) the authority designated by each *EU* (and where applicable, *EEA*) State in accordance with article 40 of the *benchmarks regulation*.

...

energy market participant

a *firm*:

- (a) whose permission:
 - (i) includes a ~~requirement~~ requirement that the *firm* must not carry on any *designated investment business* other than *energy market activity*; and
 - (ii) does not include a ~~requirement~~ requirement that it comply with *IPRU(INV) 5* (Investment management firms) or 13 (Personal investment firms); and
- (b) which is not an *authorised professional firm, bank, BIPRU firm*; (unless it is an *exempt BIPRU commodities firm*),

IFPRU investment firm (unless it is an exempt IFPRU commodities firm), building society, credit union, friendly society, ICVC, insurer, MiFID investment firm (unless it is an exempt BIPRU commodities firm or exempt IFPRU commodities firm), media firm, oil market participant, service company, insurance intermediary, home finance administrator, home finance provider, incoming EEA firm (without a top-up permission), ~~or~~ incoming Treaty firm (without a top-up permission) or regulated benchmark administrator.

oil market participant a firm:

- (a) whose permission:
 - (i) includes a ~~requirement~~ requirement that the firm must not carry on any *designated investment business* other than ~~oil market activity~~ oil market activity; and
 - (ii) does not include a ~~requirement~~ requirement that it comply with *IPRU(INV) 5* (Investment management firms) or 13 (Personal investment firms); and
- (b) which is not an *authorised professional firm, bank, BIPRU firm*; (unless it is an *exempt BIPRU commodities firm*), *IFPRU investment firm* (unless it is an *exempt IFPRU commodities firm*), *building society, credit union, friendly society, ICVC, insurer, MiFID investment firm* (unless it is an *exempt BIPRU commodities firm* or *exempt IFPRU commodities firm*), *media firm, service company, insurance intermediary, home finance administrator, mortgage intermediary, home finance provider, incoming EEA firm* (without a *top-up permission*), ~~or~~ *incoming Treaty firm* (without a *top-up permission*) or regulated benchmark administrator.

participant firm a firm other than:

...

- (i) an *operator of an electronic system in relation to lending* in respect of operating the system; and
- (j) a regulated benchmark administrator in relation to administering a benchmark;

...

regulated activity (A) In the *PRA Handbook*:

...

(B) In the *FCA Handbook*:

...

(to) *administering a benchmark (article 63OA)*

which is carried on by way of business and, except for (ta), ~~and~~ (tb) and (to), relates to a *specified investment* applicable to that activity; or, in the case of (l), (m), (n) and (o), is carried on in relation to property of any kind; or, in the case of (tm) and (tn), is carried on in relation to information about a *person's* financial standing.

...

...

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Application and purpose

...

1 Annex Detailed application of SYSC

1

Part 1		Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society	
		Who?	
1.1	R	...	
		...	
		(6)	<u>Except as provided for in (7), SYSC 2 and SYSC 3 do not apply to a firm in relation to benchmark activities.</u>
		(7)	<u>SYSC 2 and SYSC 3 continue to apply to:</u>
		(a)	<u>a person with permission to carry on the regulated activity of administering a specified benchmark acting as such; or</u>
		(b)	<u>a person with permission to carry on the regulated activity of providing information in relation to a specified benchmark acting as such.</u>
1.1A	G	(1)	<u>As a consequence of the benchmarks regulation, the regulated activities referred to in SYSC 1 Annex 1 1.1R(7)(a) and (b) will cease to apply in certain circumstances (see SUP TP 10 for an explanation of those circumstances).</u>
...		(2)	<u>The effect of SYSC 1 Annex 1 1.1R(7) is that SYSC 2 and SYSC 3 continue to apply to firms which still have permission to carry on the regulated activities in SYSC 1 Annex 1 1.1R(7)(a) and (b) when carrying on those activities.</u>

Part 2		Application of the common platform requirements (SYSC 4 to 10)	
...			

2.6G	R	(1)	Except as provided for in (2), the <i>common platform requirements</i> (other than SYSC 4.5 to SYSC 4.9 and SYSC 4 Annex 1) do not apply to a <i>firm</i> in relation to <i>benchmark activities</i> .
		(2)	The <i>common platform requirements</i> continue to apply to:
		(a)	a <i>person with permission to carry on the regulated activity of administering a specified benchmark</i> acting as such; or
		(b)	a <i>person with permission to carry on the regulated activity of providing information in relation to a specified benchmark</i> acting as such.
2.6H	G	(1)	As a consequence of the <i>benchmarks regulation</i> , the <i>regulated activities</i> referred to in SYSC 1 Annex 1 2.6GR(2)(a) and (b) will cease to apply in certain circumstances (see SUP TP 10 for an explanation of those circumstances).
		(2)	The effect of SYSC 1 Annex 1 2.6GR(2) is that the <i>common platform requirements</i> continue to apply to <i>firms</i> which still have <i>permission to carry on the regulated activities in SYSC 1 Annex 1 2.6GR(2)(a) and (b)</i> when carrying on those activities.
...			

4 General organisational requirements

...

4 Annex The main business activities and functions of a relevant authorised person 1G

Business areas and management functions	Explanation
...	
(26) Providing information in relation to a specified benchmark (26) Contributing input data to a BMR benchmark administrator (other than an Annex II benchmark administrator)	
(27) Administering a specified benchmark (27) Administering a benchmark	
...	

...

5 Employees, agents and other relevant persons

...

5.2 Certification regime

...

5.2.30 R Table: FCA-specified significant-harm functions

Function	Where defined
...	...
(2) Benchmark submission and administration	SYSC 5.2.33R
...	...

...

~~Benchmark submission and administration function~~

5.2.33 R ~~Each of the following is an FCA-specified significant-harm function:~~
~~[deleted]~~

- ~~(1) Acting in the capacity of a *person* who is allocated the function in *MAR 8.2.3R(1)* (benchmark manager); and~~
- ~~(2) Acting in the capacity of a *person* who is allocated the function in *MAR 8.3.5R(1)* (benchmark administration manager).~~

...

14 Risk management and associated systems and controls for insurers

14.1 Application

...

14.1.2A R This section does not apply to:

- (1) an incoming ECA provider acting as such; or
- (2) a firm in relation to benchmark activities.

...

TP 6 Transitional Provision 6

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
...					
5	...				
<u>6</u>	<u>SYSC 4 Annex 1G row 26</u>	<u>G</u>	<u>The guidance in column 2, as it was in force on 31 December 2017, continues to apply to a benchmark submitter in relation to LIBOR until the administrator of that benchmark becomes authorised or registered under the benchmarks regulation.</u>	<u>From [XXX] 2018</u>	
<u>7</u>	<u>SYSC 5.2.30R (row 2) and SYSC 5.2.33R</u>	<u>R</u>	<p><u>(1) The rule in column 2, as it was in force on 31 December 2017, continues to apply to a benchmark administrator, until that administrator becomes authorised or registered under the benchmarks regulation, or ceases to be authorised for administering a specified benchmark.</u></p> <p><u>(2) The rule in column 2, as it was in force on 31 December 2017, continues to apply to a benchmark submitter in relation to LIBOR until the administrator of that benchmark becomes authorised or</u></p>	<u>From [XXX]2018</u>	

				registered under the <i>benchmarks regulation</i> .	
<u>8</u>	<u>SYSC 14.1.2AR</u>	<u>R</u>	(1)	The <i>rule</i> in column 2, as it was in force on 31 December 2017, continues to apply to a <i>benchmark administrator</i> , until that administrator becomes authorised or registered under the <i>benchmarks regulation</i> , or ceases to be authorised for <i>administering a specified benchmark</i> .	From <u>[XXX]2018</u>
			(2)	The <i>rule</i> in column 2, as it was in force on 31 December 2017, continues to apply to a <i>benchmark submitter</i> in relation to LIBOR until the <i>administrator of that benchmark</i> becomes authorised or registered under the <i>benchmarks regulation</i> .	

...

Annex C

Amendments to the Code of Conduct sourcebook (COCON)

In this Annex, underlining indicates new text.

1.1 Application

...

- 1.1.12 R A *person* will not be subject to *COCON* to the extent that it would be contrary to the *UK's* obligations under a *Single Market Directive*, ~~or~~ the *auction regulation* or the benchmarks regulation.

...

Annex D

Amendments to the Threshold Conditions (COND)

In this Annex, underlining indicates new text.

1 Introduction

1.1A Application

...

To what extent does COND apply to regulated benchmark administrators?

- 1.1A.5B G (1) The *threshold conditions* do not apply to a *firm* in relation to the *regulated activity of administering a benchmark*.
- (2) COND does not apply to *regulated benchmark administrators* who are solely authorised to *administer a benchmark* as they are not subject to the *threshold conditions*.
- (3) For *regulated benchmark administrators* who are also authorised to carry on activities other than *administering a benchmark*, they will be subject to the *threshold conditions* in relation to their other *regulated activities*. COND will apply to those *firms* in relation to the *regulated activities* to which the *threshold conditions* apply.

...

Annex E**Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.1A The Statements of Principle

...

- 2.1A.2 R *An approved person will not be subject to a Statement of Principle to the extent that it would be contrary to the ~~UK's~~ UK's obligations under a Single Market Directive, ~~or the auction regulation~~ or the benchmarks regulation.*

...

Annex F

Amendments to the Fit and Proper test for Approved Persons and specified significant-harm functions (FIT)

In this Annex, striking through indicates deleted text.

1 General

...

1.2 Introduction

...

1.2.4A G (1) ...

(2) Where the function relates to:

- (a) matters outside the scope of *MiFID*, ~~for example activities related to a specified benchmark (see the benchmark submission function (CF 40), the benchmark administration function (CF 50), and the benchmark submission and administration FCA-specified significant harm functions (see SYSC 5.2.33R) ; or~~

...

...

...

Annex G

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4 Statutory status disclosure

4.1 Application

Who? What?

- 4.1.1 R This chapter applies to every *firm* and with respect to every *regulated activity*, except that:
- (1) for an *incoming ECA provider*, this chapter does not apply when the *firm* is acting as such;
 - (2) for an *incoming EEA firm* which has *permission* only for *cross-border services* and which does not carry on *regulated activities* in the *United Kingdom*, this chapter does not apply;
 - (3) for an *incoming firm* not falling under (1) or (2), this chapter does not apply to the extent that the *firm* is subject to equivalent rules imposed by its *Home State*;
 - (4) for a *UCITS qualifier*, this chapter does not apply; ~~and~~
 - (5) only GEN 4.1 (Application) and GEN 4.5 (Statements about authorisation and regulation by the appropriate regulator) ~~applies~~ apply in relation to *MiFID or equivalent third country business* and only where that *MiFID or equivalent third country business* is not business falling within paragraph 2 (Transactions between an MTF operator and its users), 3 (Transactions concluded on an MTF) or 4 (Transactions concluded on a regulated market) of Part 1 of *COBS 1 Annex 1*; ~~and~~
 - (6) only GEN 4.1 (Application) and GEN 4.5 (Statements about authorisation and regulation by the appropriate regulator) apply in relation to administering a benchmark.

...

7 Charging consumers for telephone calls

7.1 Application

...

Regulated benchmark administrators

7.1.9 R This chapter does not apply to telephone lines provided in respect of contracts relating to a *firm's administration of a benchmark*.

...

Annex H

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Application, Notification and Vetting Fees

...

3.2 Obligation to pay fees

...

- 3.2.2 G If an application for a Part 4A permission (or exercise of a *Treaty right*) falls within more than one category set out in *FEES 3 Annex 1*, other than where one of the applications is an application under the *benchmarks regulation*, only one fee is payable. That fee is the one for the category to which the highest fee tariff applies. Where applications are made under the *benchmarks regulation*, a separate fee will be payable for this application. The relevant fee is set out in *FEES 3.2.7R*.

...

- 3.2.7 R Table of application, notification, vetting and other fees payable to the FCA

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable (£)	Due date
(a) Any applicant for <i>Part 4A permission</i> (including an <i>incoming firm</i> applying for <i>top-up permission</i>) whose fee is not payable pursuant to sub-paragraph (ga) <u>(zz)</u> of this table
...		
(ga) [deleted] Any applicant	<i>FEES 3 Annex 3, part 1</i>	On or before the date the

<p>for:</p> <p>(i) a <i>Part 4A permission to carry out the regulated activity of administering a specified benchmark for one or more specified benchmarks</i> or;</p> <p>(ii) varying its <i>Part 4A permission to carry out the regulated activity of administering a specified benchmark for one or more specified benchmarks</i></p>		<p>application is made</p>
<p>...</p>		
<p>(p) A <i>firm</i> applying for a variation of its <i>Part 4A permission</i> whose fee is not payable pursuant to sub-paragraph (ga) (zz) of this table</p>	<p>...</p>	<p>...</p>
<p>...</p>		
<p>(zy) ...</p>	<p>...</p>	<p>...</p>
<p>(zz) An <u>application for authorisation as a regulated benchmark administrator.</u></p>	<p><u>The highest of the applicable tariffs set out in FEES 3 Annex 1R.</u></p> <p><u>Where an applicant intends to administer benchmarks falling into different complexity groupings, it will pay one fee</u></p>	<p><u>On the date the application is made</u></p>

	<p><u>only, for the highest category applied for.</u></p> <p><u>If, once authorised, a regulated benchmark administrator notifies the FCA of its intention to administer other/additional benchmarks no further application fee is payable (even if the other/additional benchmark falls into a higher complexity category).</u></p>	
<p><u>(zaa) An application for recognition of an administrator in accordance with article 32 of the benchmarks regulation.</u></p>	<p><u>5,000</u></p>	<p><u>On the date the application is made</u></p>
<p><u>(zab) An application for endorsement of a benchmark or family of benchmarks in accordance with article 33 of the benchmarks regulation.</u></p>	<p><u>1,500</u></p>	<p><u>On the date the application is made</u></p>

...

...

**3 Annex Authorisation fees payable
1R**

...

Part 2 – Complexity groupings not relating to *credit-regulated activities*

Straightforward cases

Straightforward cases

Activity grouping	Description
...	
A.21	...
<u>B.</u>	<u>Regulated benchmark administrators where the applicant intends to administer a non-significant benchmark</u>

Moderately complex cases

Moderately complex cases	
Activity grouping	Description
...	
B.	<i>Service companies</i>
<u>B.</u>	<u>Regulated benchmark administrators where the applicant intends to administer:</u> - <u>a significant benchmark; or</u> - <u>a commodity benchmark or an interest rate benchmark which has not been designated as a critical benchmark; or</u> - <u>a regulated data benchmark other than one which is a non-significant benchmark.</u>

Complex cases ~~R~~

Complex cases	
Activity grouping	Description
...	

B.	<i>MTF operators and OTF operators</i>
<u>B.</u>	<u><i>Regulated benchmark administrators where the applicant intends to administer a critical benchmark</i></u>

...

**3 Annex Application fees payable in connection with Recognised Investment
3R Exchanges, and Recognised Auction Platforms, and Benchmark
Administrators**

Description of applicant	Amount payable	Due date
Part 1 (UK recognised bodies)		
...		
Any applicant for: <i>(i) a Part 4A permission to carry out the regulated activity of administering a specified benchmark where the applicant intends to administer the arrangements for determining one or more specified benchmarks; or</i> <i>(ii) varying its Part 4A permission to carry out the regulated activity of administering a specified benchmark where the applicant intends to administer the arrangements for determining one or more specified benchmarks</i>	£25,000	Date the application is made
Any applicant for: <i>(i) a Part 4A permission to carry out the regulated activity of administering a specified benchmark where the applicant does not intend to administer the arrangements for determining a specified</i>	£5,000	Date the application is made

<p><i>benchmark; or</i> (ii) <i>varying its Part 4A permission to carry out the regulated activity of administering a specified benchmark where the applicant does not intend to administer the arrangements for determining a specified benchmark</i></p>		
<p>...</p>		

...

[Editor’s note: the following changes to FEES 4 come into force on 1 April 2018.]

4 Periodic fees

...

4.2 Obligation to pay periodic fees

...

4.2.7K R ...

Table A: calculating tariff data for second and subsequent years of authorisation when full trading figures are not available

Fee-block	Tariff base	Calculation where trading data are not available
<p>...</p>		
<p>B. Service companies</p>	<p>...</p>	<p>...</p>
<p>B. Benchmark <u>Benchmark</u> Regulated <u>benchmark</u> administrators</p>	<p>Annual income for the financial year ended in the calendar year ending 31 December</p>	<p>Apply the formula (A÷B) x 12 to arrive at the annualised figure.</p>

...
-----	-----	-----

...

4.2.11 R Table of periodic fees payable to the FCA

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
...			
Each of the following that makes <i>transaction reports</i> directly to the FCA under SUP 17 (Transaction reporting): (1) a <i>firm</i> ; (2) a third party acting on a <i>firm's</i> behalf; (3) an <i>approved reporting mechanism</i> ; (4) an operator of a <i>regulated market</i> ; and (5) an operator of an <i>MTF</i>
<u>A recognised administrator</u>	<u>The tariff specified in FEES 4 Annex 15R</u>	<u>Payable in accordance with FEES 4.3.6R</u>	<u>Not applicable</u>
<u>A benchmark endorser</u>	<u>The tariff specified in FEES 4 Annex 15R</u>	<u>Payable in accordance with FEES 4.3.6R</u>	<u>Not applicable</u>

...

...

4 FCA activity groups, tariff bases and valuation dates
Annex
1AR

Part 1
 This table shows how the *FCA* links the *regulated activities* for which a *firm* has *permission* to activity groups (fee-blocks). A *firm* can use the table to identify which fee-blocks it falls into based on its *permission*.

Activity group	Fee payer falls in the activity group if
...	
B. Benchmark Regulated benchmark administrators	it administers one or more specified benchmarks it has a <i>Part 4A permission to carry on the regulated activity of administering a benchmark.</i>
...	

...

Part 3	
...	
Activity group	Tariff base
...	
B. Benchmark Regulated benchmark administrators	Annual income as defined in <i>FEES 4 Annex 11AR</i> .
...	

...

Part 5

...

Activity group	Valuation date
----------------	----------------

...	
B. Benchmark <u>Regulated benchmark</u> administrators	Annual income for the financial year ended in the calendar year ending 31 December.
...	

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April ~~2017~~ 2018 to 31 March ~~2018~~ 2019

...

Activity group	Fee payable	
...		
B. Service Companies
B. Benchmark <u>Regulated benchmark</u> administrators	Band width	Fee (£)
	Annual income up to and including £3,000,000 <u>100,000</u>	100,000 [tbc]
	PLUS:	
	Band width	Fee (£/£ thousand or part thousand of income)
	Annual income over £3,000,000 <u>100,000</u>	28.90 [tbc]
...		

4 Annex 11AR Definition of annual income for the purposes of calculating fees in fee blocks A.13, A.14, A.18, A.19 and B. Service Companies, Recognised Investment Exchanges and Regulated Benchmark Administrators

Annual income definition
...
Where the firm is a <u>Regulated</u> Benchmark Administrator

‘Annual income’ for a *regulated benchmark administrator* is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the *firm’s* accounts during the reporting year in respect of, or in relation to activities that comprise a necessary part of its business as a *regulated benchmark administrator*.

Where the sales and marketing of a benchmark are undertaken by a separate legal entity, the *regulated benchmark administrator* is responsible for identifying the relevant income and reporting it to us as its own income. To avoid double counting, the *regulated benchmark administrator* should report only the income from sales and exclude any amount paid to it from that income to pay for its expenses as a *regulated benchmark administrator*.

...

...

4 Annex 15R Fees relating to the recognition of benchmark administrators and the endorsement of benchmarks for the period 1 April 2018 to 31 March 2019

<u>Activity group</u>	<u>Fee payable</u>
<u>A third country legal representative</u>	£[tbc]
<u>A benchmark endorser</u>	£[tbc]

...

Insert the new FEES TP 17AR after FEES TP 17R (Transitional provisions relating to fees payable for authorisation as an authorised payment institution or registration as a small payment institution under the Payment Services Regulations 2017).

TP 17AR Transitional Provisions for fees relating to benchmark administrators

<u>(1)</u>	<u>(2) Material provision to which transitional provision applies</u>	<u>(3)</u>	<u>(4) Transitional provision</u>	<u>(5) Transitional provision: dates in force</u>	<u>(6) Handbook provision: coming into force</u>
<u>17 A.1</u>	<u>FEES 3.2.7R Part 1 (1) (zz) and FEES 3</u>	<u>R</u>	<u>Where a person: (a) has authorisation to carry on the</u>	<u>From [XXX] 2018</u>	<u>[XXX]2018</u>

	<u>Annex 1R</u>		<p><u>regulated activity of administering a specified benchmark (in accordance with article 63O(1)(b) of the Regulated Activities Order) on [XXX] 2018;</u></p> <p><u>and</u></p> <p><u>(b) applies for authorisation to carry on the regulated activity of administering a benchmark specified in article 63OA of the Regulated Activities Order on or after [XXX] 2018,</u></p> <p><u>the application fee payable in respect of its application (b) above, as set out in FEES 3 Annex 1R, will be discounted by the amount paid in respect of its initial application under (a).</u></p> <p><u>If the fee payable in respect of application (b) is lower than that which was paid for the application made in respect of (a), no refund is available.</u></p>		
<u>17 A.2</u>	<u>FEES 4 Annex 1AR, FEES 4 Annex 2AR and FEES 4 Annex 11AR</u>	<u>R</u>	<p><u>These rules as in force from 1 April 2018 apply to a person who has authorisation to carry on the regulated activity of administering a specified benchmark (a benchmark</u></p>	<u>From 1 April 2018</u>	<u>1 April 2018</u>

		<p><u>administrator</u>) as if a reference in these <u>rules to a regulated benchmark administrator</u> were a reference to a <u>benchmark administrator until that person becomes authorised under the benchmarks regulation, or ceases to be authorised as a benchmark administrator.</u></p>		
--	--	---	--	--

Annex I

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1 Comes into force ~~[XXX]~~2018

3B MCD general information

3B.1 Provision of general information

...

3B.1.2 R ...

(10A) a description of the conditions directly relating to early repayment;

...

...

Part 2 Comes into force 1 July 2018

3 MCD general information

3B.1 Provision of general information

...

3B.1.2 R ...

(5A) where contracts that reference a benchmark are available, the names of the benchmarks and of their administrators and the potential implications on the consumer;

...

...

3B.1.4 G (1) Article 2.2(f) of the benchmarks regulation provides that the regulation does not apply to a natural or legal person that grants or promises to grant credit in the course of that person's trade, business or profession. However, that exclusion only applies insofar as that person publishes or makes available to the public that person's own variable or fixed borrowing rates set by internal decisions and applicable only to financial contracts entered into by that person or

by a company within the same group with their respective clients.

- (2) The FCA considers that a firm (F) is not required to include details about a benchmark (B) under MCOB 3B.1.2R(5A) insofar as the exclusion in article 2.2(f) of the benchmarks regulation applies to F in respect of B.

[*Editor's note:* The FCA consulted on a new MAR 8.4 in CP17/15 'Powers in relation to LIBOR contributions' (June 2017). At the time of publishing this PS, the FCA is considering its response to CP17/15. If the FCA decides to make the rules proposed in that CP, they would now sit in a new MAR 8.8 instead of a new MAR 8.4.]

Annex J

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

8 Benchmarks

8.1 Application and purpose

Application

- 8.1.1 R ~~This chapter applies to every firm which is a benchmark submitter or a benchmark administrator~~ MAR 8.4 to MAR 8.7 apply in accordance with the application provisions set out in those sections.

Purpose

- 8.1.2 G ~~The purpose of this chapter is to set out the requirements applying to firms who are benchmark submitters or benchmark administrators when carrying out the activities of providing information in relation to a specified benchmark or administering a specified benchmark.~~ that apply to firms involved in the provision of, or contribution to, benchmarks, as follows:

- (1) MAR 8.4 (Third country benchmark contributors) sets out the requirements that apply to third country benchmark contributors that are not supervised entities, but would be if they were located in the EU. These rules apply requirements mirroring those which apply to benchmark contributors that are in scope of the benchmarks regulation.
- (2) MAR 8.5 (Regulated benchmark administrators) sets out some Handbook requirements that apply to regulated benchmark administrators (who become authorised under the benchmarks regulation for the activity of administering a benchmark on or after [XXX] 2018).
- (3) MAR 8.6 (Responsibility for benchmark activities: benchmark contributors) sets out requirements in relation to responsibility for contributing input data to a BMR benchmark administrator.
- (4) MAR 8.7 (Procedures for exercising powers in relation to critical benchmarks) sets out the procedure for imposing requirements under articles 21 and 23 of the benchmarks regulation in relation to critical

benchmarks.

[**Note:** articles 2(2) of the *Market Abuse Regulation*; and article 12 of the *Market Abuse Regulation*; and article 15 of the *Market Abuse Regulation*, regarding the ongoing *market abuse* provisions applicable to *firms* carrying out the activities specified in *MAR 8.1.2G*, and the *benchmarks regulation* setting out the requirements applicable to *firms* administering, contributing to and using a *benchmark*.]

Actions for damages

- 8.1.3 R A contravention of a ~~rule~~ rule in *MAR 8* does not give rise to a right of action by a private person under section 138D(2) of the *Act* (and each rule in *MAR 8* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

MAR 8.2 (Requirements for benchmark submitters) is deleted in its entirety and the deleted text is not shown.

8.2 ~~Requirements for benchmark submitters~~ [deleted]

MAR 8.3 (Requirements for benchmark administrators) is deleted in its entirety and the deleted text is not shown.

8.3 ~~Requirements for benchmark administrators~~ [deleted]

...

8.4 Third country benchmark contributors

Application

- 8.4.1 R (1) Subject to (2), this section applies to a *third country benchmark contributor* that:
- (a) is not a *supervised entity*; and
 - (b) would be a *supervised entity* if it were located in the *EU*.
- (2) This section does not apply to a *third country benchmark contributor* to the extent that it is *contributing input data* in relation to a

commodity benchmark, the provision of which is governed by Annex II of the benchmarks regulation (in accordance with article 19 of that regulation).

Application of the benchmarks regulation

8.4.2 R A third country benchmark contributor in MAR 8.4.1R must comply with the following requirements applicable to supervised contributors (as defined in the benchmarks regulation) as if they were rules:

- (1) article 16 of the benchmarks regulation, as amended or supplemented as relevant by article 26 and Annex 1 of the benchmarks regulation; and
- (2) article 23(3) of the benchmarks regulation.

8.5 Regulated benchmark administrators

Application

8.5.1 R This section applies to a regulated benchmark administrator.

Responsibility for benchmark activities: regulated benchmark administrators

- 8.5.2 R (1) This rule applies to a regulated benchmark administrator other than:
- (a) an Annex II benchmark administrator;
 - (b) a relevant authorised person.
- (2) A regulated benchmark administrator must allocate the responsibility described in (3) to a director or senior manager who is performing:
- (a) an FCA governing function other than the non-executive director function; or
 - (b) the significant management function (where applicable).
- (3) The responsibility referred to in (2) is responsibility for the firm's implementation of the applicable requirements of the regulatory system (including the benchmarks regulation) in relation to its activities as a regulated benchmark administrator.
- (4) A regulated benchmark administrator must promptly notify the FCA of the identity of the person who is allocated the responsibility under (2).

8.5.3 G The rule in MAR 8.5.2R does not apply to a regulated benchmark administrator which is a relevant authorised person. That is because:

- (1) UK relevant authorised persons are already subject to the requirement to allocate overall responsibility for each of the activities, business areas and management functions of the *firm* in SYSC 4.7.8R. (SYSC 4 Annex 1 (The main business activities and functions of a relevant authorised person) refers to *administering a benchmark*); and
- (2) EEA relevant authorised persons and third country relevant authorised persons do not require *authorisation* to carry out the activity of *administering a benchmark* unless they are *located in the UK*. That is because that *regulated activity* gives effect to article 34 of the *benchmarks regulation* and, for these purposes, the requirements of article 34 only apply to administrators which are located in the *UK*.
- 8.5.4 R (1) This rule applies to an Annex II benchmark administrator.
- (2) An Annex II benchmark administrator must promptly notify the FCA of the identity of the most senior manager(s) responsible for ensuring that the firm satisfactorily implements the requirements of the benchmarks regulation (in accordance with paragraph 14(a) of Annex II to that regulation).
- 8.5.5 G (1) Article 19 of the benchmarks regulation states that Annex II to that regulation applies to the provision of a commodity benchmark instead of Title II to the regulation (save where Annex II is disapplied by article 19).
- (2) Paragraph 14(a) of Annex II to the benchmarks regulation requires an Annex II benchmark administrator to ensure that it has in place segregated reporting lines amongst its managers, assessors and other employees and from the managers to the administrator's most senior level management and its board to ensure:
- (a) that the administrator satisfactorily implements the requirements of the benchmarks regulation; and
- (b) that responsibilities are clearly defined and do not conflict or cause a perception of conflict.
- 8.5.6 G An Annex II benchmark administrator which is a relevant authorised person may comply with the requirement in MAR 8.5.4R(2) to notify the FCA of the identity of the most senior manager(s) responsible for implementing the requirements of the benchmarks regulation by including that responsibility in that person's statement of responsibilities.
- Notifications about suspected benchmark manipulation
- 8.5.7 G (1) The guidance in (2) and (3) applies to regulated benchmark administrators other than Annex II benchmark administrators.
- (2) Article 14(1) of the benchmarks regulation requires a regulated benchmark administrator to establish adequate systems and effective

controls to ensure the integrity of input data in order to be able to identify and report to its *competent authority* any conduct that may involve manipulation or attempted manipulation of a benchmark, under the *Market Abuse Regulation*.

- (3) For the avoidance of doubt, the *FCA* expects a *regulated benchmark administrator* to notify the *FCA* without delay of any notification it receives from a contributor about conduct that may involve manipulation or attempted manipulation of a benchmark under the *Market Abuse Regulation*.

Adequate financial resources for administrators of critical benchmarks

- 8.5.8 R Notwithstanding any other financial resource requirements that may apply, a *regulated benchmark administrator* that administers a *critical benchmark* must:
- (1) be able to meet its liabilities as they fall due; and
- (2) maintain, at all times, sufficient financial resources to cover the operating costs of administering the *critical benchmark* for a period of at least six *months*.
- 8.5.9 G A *regulated benchmark administrator* that administers more than one *critical benchmark* may comply with its financial resources requirements under *MAR* 8.5.8R(2) by holding sufficient financial resources to cover the combined operating costs for all *critical benchmarks* it administers.
- 8.5.10 G (1) *MAR* 8.5.8R sets out the minimum amount of financial resources a *regulated benchmark administrator* must hold to carry out administering a benchmark in relation to a *critical benchmark*.
- (2) The *FCA* expects *regulated benchmark administrators* administering a *critical benchmark* to:
- (a) normally hold sufficient financial resources to cover the operating costs of administering the *critical benchmark(s)* for a period of nine *months*; and
- (b) notify the *FCA* where a *regulated benchmark administrator's* financial resources fall below these levels (required by *MAR* 8.5.13R and *SUP* 15.3.11R).
- 8.5.11 G To meet the financial resources requirement in *MAR* 8.5.8R(2), the *FCA* expects a *regulated benchmark administrator* to hold both sufficient liquid financial assets and net capital to cover the operating costs of administering the *critical benchmark(s)*. In particular:
- (1) net capital can include common stock, retained earnings, disclosed reserves, or other instruments generally classified as common equity tier one capital or additional tier one capital, and may include interim

earnings that have been independently verified by an auditor.

- (2) net capital should be calculated after deductions for:
- (a) holdings of the *regulated benchmark administrator's* own securities or those of any undertakings in the *regulated benchmark administrator's* group;
 - (b) any amount owed to the *regulated benchmark administrator* by an undertaking in its *group* under any loan or credit arrangement; and
 - (c) any exposure arising under any guarantee, charge or contingent liability.
- (3) liquid financial assets can include cash or liquid financial instruments held on the balance sheet of the *regulated benchmark administrator* where the financial instruments:
- (a) have minimal market and credit risk; and
 - (b) are capable of being liquidated with minimal adverse price effect.

- 8.5.12 G The *FCA* may use its powers under section 55L of the *Act* to impose on a *regulated benchmark administrator* subject to *MAR* 8.5.8R a requirement to hold additional financial resources to *MAR* 8.5.8R if the *FCA* considers that desirable to meet any of its *operational objectives*.

Notifications for breaches

- 8.5.13 R A *regulated benchmark administrator* subject to *MAR* 8.5.8R must notify the *FCA*, as soon as practicable, where it identifies a reasonable possibility of not being able to hold sufficient financial resources to cover the operating costs of administering the *critical benchmark(s)* for a period of nine *months*.
- 8.5.14 G *Regulated benchmark administrators* are reminded of their obligation under *SUP* 15.3.11R to notify the *FCA* of any significant breaches of *rules*.

8.6 **Responsibility for benchmark activities: benchmark contributors**

Application

- 8.6.1 R (1) This section applies to *benchmark contributors* save as provided for in (2).
- (2) This section does not apply to a *benchmark contributor* to the extent that it is *contributing input data* in relation to a *commodity benchmark* the provision of which is governed by Annex II to the *benchmarks regulation* (in accordance with article 19 of that regulation).

Responsibility for contributing input data

- 8.6.2 R A benchmark contributor must promptly notify the FCA of the senior personnel responsible for the process for contributing input data to a BMR benchmark administrator.
- 8.6.3 G (1) The FCA expects a benchmark contributor to ensure a member of its senior personnel is responsible for the process of contributing input data to a BMR benchmark administrator regardless of whether the contribution is provided from the UK or from elsewhere.
- (2) The requirement in MAR 8.6.2R applies regardless of whether the benchmark contributor contributes input data from the UK or from elsewhere
- 8.6.4 G A UK benchmark contributor or third country benchmark contributor which is a relevant authorised person may:
- (1) comply with the requirement to identify the senior personnel responsible for the process of contributing input data to a BMR benchmark administrator by allocating that responsibility under SYSC 4.7.8R or SYSC 4.8.10R respectively; and
- (2) comply with the requirement in MAR 8.6.2R to notify the FCA of the senior personnel responsible for the process for contributing input data to a BMR benchmark administrator by including that responsibility in that person's statement of responsibilities.

8.7 Procedures for exercising powers in relation to critical benchmarksApplication and purpose

- 8.7.1 G This section applies to all firms and to unauthorised persons.
- 8.7.2 G (1) The purpose of this section is to set out the procedures which the FCA will follow when exercising its powers under articles 21 and 23 of the benchmarks regulation.
- (2) MAR 8.7.9G contains a table of definitions for the purpose of this section. Those defined terms are not shown in italics.

Compulsion powers under the benchmarks regulation

- 8.7.3 G (1) The FCA has been designated as the UK competent authority for the purpose of the benchmarks regulation.
- (2) The benchmarks regulation confers various directly applicable powers on competent authorities in relation to critical benchmarks. In particular:

- (a) article 21(3) of the *benchmarks regulation* gives a *competent authority* the power to compel the administrator of a *critical benchmark* to continue publishing the *critical benchmark* for up to 24 months; and
 - (b) article 23(6) of the *benchmarks regulation* gives a *competent authority* the power to take various steps where it considers that the representativeness of a *critical benchmark* is put at risk. That includes the power to require *supervised entities* to contribute input data to the administrator of a *critical benchmark* for up to 24 months.
- (3) The two powers in (a) and (b) above are referred in this section as the “compulsion powers”.

Exercise of compulsion powers: general

- 8.7.4 G (1) Articles 21 and 23 of the *benchmarks regulation* set out the circumstances in which *competent authorities* may exercise the compulsion powers.
- (2) In some cases, the *competent authority* may only have a short period in which to decide whether to exercise a compulsion power.
- (3) Where the *FCA* considers it necessary to exercise a compulsion power, it will make that decision on the basis of the information available to it at that time.
- (4) The *benchmarks regulation* does not require a *competent authority* to consult on the use of compulsion powers (save that *competent authorities* must consult the college established under article 46 of the *benchmarks regulation* when exercising the compulsion power in article 23).
- (5) Given that the compulsion powers may need to be exercised within short timescales, the *FCA* does not expect to consult on the use of its compulsion powers (other than consulting other *regulatory bodies* where required by the *Act* or the *benchmarks regulation*).
- (6) In some cases, it may be necessary to exercise compulsion powers in relation to more than one *person*. In those circumstances, it may be necessary to address a written notice under this section to more than one *person*.
- (7) The *FCA* will review a decision to exercise a compulsion power in the circumstances described in this section.

Decision to exercise a compulsion power

- 8.7.5 G If the *FCA* decides to exercise a compulsion power in respect of a *person* (P) (whether a *supervised entity* or an administrator), the *FCA* will give P a

written notice which:

- (1) gives details of the decision (“the First Decision”);
- (2) states the FCA’s reasons for the First Decision;
- (3) states the date on which the First Decision takes effect; and
- (4) states that P may make representations to the FCA in relation to the First Decision within a period specified in the written notice.

8.7.6 G In some cases the decision in MAR 8.7.5G may take effect immediately. This means that in some cases:

- (1) P will be required to comply with the decision from the date of the written notice; and
- (2) the decision will continue to have effect pending consideration of any representations made by P.

Review of the First Decision

- 8.7.7 G (1) Where P makes written representations to the FCA in relation to the First Decision in accordance with MAR 8.7.5G(4), the FCA will review that decision and will decide whether to maintain, vary or revoke it.
- (2) In conducting the review in (1), the matters which the FCA may have regard to include:
- (a) the written representations made by P in relation to the First Decision; and
 - (b) any additional information relevant to the exercise of the compulsion power (whether obtained before or after the First Decision).
- (3) The review in (1) will be carried out by:
- (a) a senior FCA staff member who did not participate in making the First Decision; or
 - (b) two or more senior FCA staff members including at least one person who did not participate in making the First Decision.
- (4) When the FCA has completed the review in (1), the FCA will give P a written notice which:
- (a) gives details of the decision in response to the review (“the Second Decision”);

TP 1 Transitional Provisions

...

1.2

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
2	<i>MAR 6</i>	R	Expired		
<u>3</u>	<u><i>MAR 8.2</i></u>		<u>This section as it was in force on 31 December 2017 continues to apply to a <i>benchmark submitter</i> in relation to LIBOR until the administrator of that benchmark becomes authorised or registered under the <i>benchmarks regulation</i>.</u>	<u>From [XXX] 2018</u>	
<u>4</u>	<u><i>MAR 8.3</i></u>		<u>This section as it was in force on 31 December 2017 continues to apply to a <i>benchmark administrator</i> in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i>, or ceases to be authorised for <i>administering a specified benchmark</i>.</u>	<u>From [XXX] 2018</u>	
<u>5</u>	<u><i>MAR 8.4.2</i></u>	R	<u>This rule only applies to a <i>benchmark</i></u>	<u>From [XXX] 2018</u>	<u>[XXX] 2018</u>

			<u>contributor from the point at which the administrator of the benchmark to which it contributes becomes authorised or registered under the benchmarks regulation.</u>		
<u>6</u>	<u>MAR 8.6.2</u>	<u>R</u>	<u>This rule only applies to a benchmark contributor from the point at which the administrator of the benchmark to which it contributes becomes authorised or registered under the benchmarks regulation.</u>	<u>From [XXX] 2018</u>	<u>[XXX] 2018</u>

Annex K

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

2.3 Information gathering by the FCA on its own initiative: cooperation by firms

...

Suppliers under material outsourcing arrangements

2.3.7 R (1) A *firm* must take reasonable steps to ensure that each of its suppliers under *material outsourcing* arrangements deals in an open and cooperative way with the *FCA* in the discharge of its functions under the *Act* in relation to the *firm*.

(2) The requirement in (1) does not apply to a *regulated benchmark administrator* where the *material outsourcing* arrangements relate to the carrying on of the *regulated activity* of *administering a benchmark*.

...

2.3.10A G (1) *SUP 2.3.7R(2)* provides that the requirement in *SUP 2.3.7R(1)* does not apply to a *regulated benchmark administrator* where the *material outsourcing* arrangements relate to the carrying on of the *regulated activity* of *administering a benchmark*.

(2) That is because article 10(3)(f) of the *benchmarks regulation* imposes equivalent requirements on *firms* which outsource functions in relation to *administering a benchmark*.

...

3 Auditors

3.1 Application

3.1.1 R (1) ~~This~~ Except as provided for in (2), this chapter applies to:

- ~~(1)~~ every *firm* within a category listed in column (1) of the table
- (a) in *SUP 3.1.2R*; and
- ~~(2)~~ the external auditor of such a *firm* (if appointed under *SUP*
- (b) 3.3 or appointed under or as a result of a statutory provision other than in the *Act*);

in accordance with column (2) or (3) of that table, except as

described in the remainder of this section.

- (2) This chapter does not apply in relation to a firm's benchmark activities.

...

10A FCA Approved Persons

10A.1 Application

...

Incoming EEA firms, incoming Treaty firms and UCITS qualifiers

10A.1.7 R This chapter does not apply to:

- (1) an *incoming EEA firm*; or
- (2) an *incoming Treaty firm*; or
- (3) a *UCITS qualifier*,

if and in so far as the question of whether a *person* is fit and proper to perform a particular function in relation to that *firm* is reserved, under any of the *Single Market Directives*, the *Treaty*, the *UCITS Directive*, ~~or~~ the *auction regulation* or the *benchmarks regulation*, to an authority in a country or territory outside the *United Kingdom*.

...

Benchmark activities

10A.1.2 G (1) For a firm which only has a permission for administering a
1A benchmark, the following FCA controlled functions do not apply:

- (a) the apportionment and oversight function;
- (b) the compliance oversight function;
- (c) the money laundering reporting function; and
- (d) the systems and controls function.

(2) That is because:

- (a) the FCA controlled functions in (a) to (c) above do not apply because those functions are specified by incorporation of requirements in SYSC and the relevant parts of SYSC do not apply in relation to benchmark activities (which includes administering a benchmark);
- (b) the FCA controlled function in (d) above does not apply in

relation to *benchmark activities* (see SUP 10A.8.2R).

- (3) The functions in (a) to (d) still apply to a *firm* which *administers a benchmark* as well as carrying on other *regulated activities*. However, they do not apply in respect of its activities as a *regulated benchmark administrator*.
- (4) Various other *FCA controlled functions* are only relevant to *firms* which carry on particular types of activity and will not be relevant to a *firm* (F) which does not carry on any *regulated activities* other than *administering a benchmark*. For instance:
- (a) the *CASS operational oversight function* will not be relevant to F because that function is only relevant to *CASS medium firms*, *CASS large firms* and *CASS large debt management firms*; F will not hold *client money* and will therefore not be a *CASS medium firm*, a *CASS large firm* or a *CASS large debt management firm*;
- (b) the *customer function* involves performing various types of activity none of which would be performed by a *firm* which does not carry on any *regulated activities* other than *administering a benchmark*.
- (5) The functions in SUP 10A.1.21AG(1)(a) to (d) do not apply to a *benchmark contributor* in relation to its *contribution of input data* to a *BMR benchmark administrator*.
- (6) That is because:
- (a) the functions in SUP 10A.1.21AG(1)(a) to (c) are specified by incorporation of requirements in SYSC and the relevant parts of SYSC do not apply in relation to *benchmark activities* (which includes *contributing input data to a BMR benchmark administrator*); and
- (b) the *FCA controlled function* in SUP 10A.1.21AG(1)(d) above does not apply in relation to *benchmark activities* (see SUP 10A.8.2R).

Territorial scope of SUP 10A in relation to benchmark submission

- 10A.1.2 R Notwithstanding anything to the contrary in SUP 10A.1.5R, SUP 10A.1.6R
2 and SUP 10A.1.13R the application of SUP 10A to the benchmark submission function is as set out in MAR 8.2.3R. [deleted]
- 10A.1.2 G MAR 8.2.3R says that the obligation on a *benchmark submitter* to appoint a
3 benchmark manager applies if it maintains an establishment in the *United Kingdom*. Therefore, SUP 10A applies to the *benchmark submission function* whether or not the activity of *providing information in relation to a specified benchmark* (or any other regulated activity) or the *benchmark*

~~submission function are carried on from that establishment. [deleted]~~

...

10A.4 Specification of functions

...

10A.4.4 R FCA controlled functions

Part 1 (FCA controlled functions for FCA-authorized persons and appointed representatives)		
Type	CF	Description of FCA controlled function
...	...	
	40	Benchmark submission function
	50	Benchmark administration function
...	...	
Part 2 (FCA controlled functions for PRA-authorized persons) (See Note 1)		
Type	CF	Description of FCA controlled function
...	...	
	40	Benchmark submission function
	50	Benchmark administration function
...	...	

...

10A.7 FCA required functions

...

~~Benchmark submission function (CF40)~~

10A.7.1 R ~~The benchmark submission function is the function of acting in the capacity of a person to whom is allocated the function set out in MAR 8.2.3R(1) (Organisational and governance arrangements). [deleted]~~

2

~~Benchmark administration function (CF50)~~

10A.7.1 R The ~~benchmark administration function~~ is the function of acting in the
3 capacity of a ~~person to whom is allocated the function set out in MAR~~
~~8.3.5R(1) (Requirements for benchmark administrators)~~. [deleted]

...

10A.8 Systems and controls functions

...

10A.8.2 R The *systems and controls function* does not apply in relation to:

(1) *bidding in emissions auctions* carried on by a *firm* that is exempt from *MiFID* under article 2(1)(i); or

(2) *benchmark activities*.

...

Amend the forms in SUP 10A Annex 4D (Form A: Application to perform controlled functions under the approved persons regime) as shown.

**10A Form A: Application to perform controlled functions under the approved
Annex persons regime
4D**

The Long and Short Form As shown below are amended as shown. The two forms (Long Form A and Short Form A) should both be amended separately, as shown. Underlining indicates new text and striking through indicates deleted text.

The Long and Short Form A – UK and Overseas Firms (not incoming EEA)

...

3.02 For applications from a single *firm*, please tick the boxes that correspond to the *controlled functions* to be performed. If the *controlled functions* are to be performed for more than one *firm*, please go to question **3.05**

a	Significant influence functions	CF 1 <i>Director function</i>	<input type="checkbox"/>
		CF 2 <i>Non-executive director function</i>	<input type="checkbox"/>
		CF 3 <i>Chief executive function</i>	<input type="checkbox"/>
		CF 4 <i>Partner function</i>	<input type="checkbox"/>
		CF 5 <i>Director of an unincorporated association function</i>	<input type="checkbox"/>
		CF 6 <i>Small friendly society function</i>	<input type="checkbox"/>
	Significant influence functions	CF 8 <i>Apportionment and oversight function</i> <i>(this function is not applicable to all firms please refer to Notes for Completing Form A)</i>	<input type="checkbox"/>
		CF 10 <i>Compliance oversight function</i>	<input type="checkbox"/>
		CF 10a <i>CASS operational oversight function</i>	<input type="checkbox"/>
		CF 11 <i>Money laundering reporting function</i>	<input type="checkbox"/>
		CF 12 <i>Actuarial function</i>	<input type="checkbox"/>
		CF 12A <i>With-profits actuary function</i>	<input type="checkbox"/>
		CF 12B <i>Lloyd's Actuary function</i>	<input type="checkbox"/>
		CF 28 <i>System and controls function</i>	<input type="checkbox"/>
CF 29 <i>Significant management function</i>		<input type="checkbox"/>	
CF 40 <i>Benchmark submission function</i>		<input type="checkbox"/>	
CF 50 <i>Benchmark administration function</i>	<input type="checkbox"/>		
b	Customer function	CF 30 <i>Customer function</i>	<input type="checkbox"/>

3.03 Effective date of *controlled functions* indicated above †

3.04 Job title (mandatory for *controlled function* 28 & 29) †
Please refer to notes on the requirements for submitting a CV

Insurance mediation

Will the candidate be responsible for Insurance mediation at the firm? YES NO

(Note: Yes can only be selected if the individual is applying for (CF1, 3-8 or

29)

Mortgage Credit Directive

Will the candidate be responsible for Mortgage Credit Directive Intermediation at the firm?

YES NO

(Note: Yes can only be selected if the individual is applying for (CF1, 3-8 or 29)

Benchmark administration

Will the candidate be responsible for the firm's activities as a regulated benchmark administrator (see MAR 8.5.2R and MAR 8.5.4R)?

YES NO

(Note: For firms subject to MAR 8.5.2R, "Yes" can only be selected if the individual is applying for CF1, 3-6 or CF29).

Contributing input data to a BMR benchmark administrator

Will the candidate be responsible for the process of contributing input data to a BMR benchmark administrator?

YES NO

(Note: this question only applies to firms which are subject to MAR 8.6.)



I have supplied further information related to this page in Section 6†

YES

NO

...

The Long Form A – UK and Overseas Firms (not incoming EEA) for MiFID authorisation applications

...

3.02 For applications from a single *firm*, please tick the boxes that correspond to the *controlled functions* to be performed. If the *controlled functions* are to be performed for more than one *firm*, please go to question **3.05**

a	Significant influence functions	CF 1 <i>Director function</i>	<input type="checkbox"/>
		CF 2 <i>Non-executive director function</i>	<input type="checkbox"/>
		CF 3 <i>Chief executive function</i>	<input type="checkbox"/>
		CF 4 <i>Partner function</i>	<input type="checkbox"/>
		CF 5 <i>Director of an unincorporated association function</i>	<input type="checkbox"/>
		CF 6 <i>Small friendly society function</i>	<input type="checkbox"/>
	Significant influence functions	CF 8 <i>Apportionment and oversight function</i> <i>(this function is not applicable to all firms please refer to Notes for Completing Form A)</i>	<input type="checkbox"/>
		CF 10 <i>Compliance oversight function</i>	<input type="checkbox"/>
		CF 10a <i>CASS operational oversight function</i>	<input type="checkbox"/>
		CF 11 <i>Money laundering reporting function</i>	<input type="checkbox"/>
		CF 12 <i>Actuarial function</i>	<input type="checkbox"/>
		CF 12A <i>With-profits actuary function</i>	<input type="checkbox"/>
		CF 12B <i>Lloyd's Actuary function</i>	<input type="checkbox"/>
		CF 28 <i>System and controls function</i>	<input type="checkbox"/>
CF 29 <i>Significant management function</i>		<input type="checkbox"/>	
CF 40 <i>Benchmark submission function</i>		<input type="checkbox"/>	
CF 50 <i>Benchmark administration function</i>	<input type="checkbox"/>		
b	Customer function	CF 30 <i>Customer function</i>	<input type="checkbox"/>

3.03 Effective date of *controlled functions* indicated above †

3.04 Job title †
Please refer to notes on the requirements for submitting a CV

Insurance mediation

Will the candidate be responsible for Insurance mediation at the firm?

YES NO

(Note: Yes can only be selected if the individual is applying for CF1, 3-8 or 29)

Mortgage Credit Directive

Will the candidate be responsible for Mortgage Credit Directive Intermediation at the firm?

(Note: Yes can only be selected if the individual is applying for CF1, 3-8 or 29)

YES NO

Benchmark administration

Will the candidate be responsible for the firm's activities as a regulated benchmark administrator (see MAR 8.5.2R and MAR 8.5.4R)?

(Note: For firms subject to MAR 8.5.2R, "Yes" can only be selected if the individual is applying for CF1, 3-6 or CF29).

YES NO

Contributing input data to a BMR benchmark administrator

Will the candidate be responsible for the process of contributing input data to a BMR benchmark administrator?

(Note: this question only applies to firms which are subject to MAR 8.6.)

YES NO



I have supplied further information related to this page in Section 6[†]

YES NO

...

The Long and Short Form A – Incoming EEA only. The two forms (Long Form A and Short Form A) should both be amended separately as shown.

...

3.02 For applications from a single firm, please tick the boxes that correspond to the *controlled functions* to be performed.

If the *controlled functions* are to be performed for more than one firm, please go to question **3.05**

a Significant influence functions

CF 11 Money laundering reporting function	<input type="checkbox"/>
CF 29 Significant management function	<input type="checkbox"/>

c	significant influence functions	CF 40 <i>Benchmark submission function</i>	<input type="checkbox"/>
		CF 50 <i>Benchmark administration function</i>	<input type="checkbox"/>
b	Customer function	CF 30 <i>Customer function</i>	<input type="checkbox"/>

➔ I have supplied further information related to this page in Section 6 YES NO

...

Amend the form in SUP 10A Annex 8D (Form E: Internal transfer of an approved person) as shown.

10A Annex 8D Form E: Internal transfer of an approved person

The Form E for firms which are not Solvency II firms (including large non-directive insurers) or small non-directive insurers (and are not Relevant Authorised Persons)

...

4.02 For applications from a single *firm*, please tick the boxes that correspond to the *controlled functions* to be performed.

If the *controlled functions* are to be performed for more than one *firm*, please go to question 4.05

a	Significant influence functions	CF 1 <i>Director function</i>	<input type="checkbox"/>
		CF 2 <i>Non- executive director function</i>	<input type="checkbox"/>
		CF 3 <i>Chief executive function</i>	<input type="checkbox"/>
		CF 4 <i>Partner function</i>	<input type="checkbox"/>
		CF 5 <i>Director of an unincorporated association function</i>	<input type="checkbox"/>
		CF 6 <i>Small friendly society function</i>	<input type="checkbox"/>

➔ I have supplied further information related to this page in Section 5 YES NO

Significant influence functions continued	CF 8	Apportionment and oversight function (Non-MiFID business Only)	<input type="checkbox"/>
	CF 9	EEA investment business oversight function (Non-MiFID business Only)	<input type="checkbox"/>
	CF 10	Compliance oversight function (Non-MiFID business Only)	<input type="checkbox"/>
	CF 10 A	CASS operational oversight function	<input type="checkbox"/>
	CF 11	Money laundering reporting function	<input type="checkbox"/>
	CF 12	Actuarial function	<input type="checkbox"/>
	CF 12A	With-profits actuary function	<input type="checkbox"/>
	CF 12B	Lloyd's Actuary function	<input type="checkbox"/>
	CF 28	System and controls function	<input type="checkbox"/>
	CF 29	Significant management function	<input type="checkbox"/>
b significant influence functions continued	CF 40	Benchmark submission function	<input type="checkbox"/>
	CF 50	Benchmark administration function	<input type="checkbox"/>
c Customer function	CF 30	Customer function	<input type="checkbox"/>
4.03	Effective date of controlled functions indicated above †		
4.04	Job title (mandatory for controlled function 28 & 29) †		
	Insurance mediation		
	Will the candidate be responsible for Insurance mediation at the firm?		
	YES	<input type="checkbox"/>	NO <input type="checkbox"/>
	(Note: Yes can only be selected if the individual is applying for (CF1,3-8 or 29))		

Mortgage Credit Directive Intermediation

Will the candidate be responsible for Mortgage Credit Directive Intermediation at the firm?

(Note: Yes can only be selected if the individual is applying for (CF1, 3-8 or 29)

YES NO

Benchmark administration

Will the candidate be responsible for the firm's activities as a regulated benchmark administrator (see MAR 8.5.2R and MAR 8.5.4R)?

(Note: For firms subject to MAR 8.5.2R, "Yes" can only be selected if the individual is applying for CF1, 3-6 or CF29).

YES NO

Contributing input data to a BMR benchmark administrator

Will the candidate be responsible for the process of contributing input data to a BMR benchmark administrator?

(Note: this question only applies to firms which are subject to MAR 8.6.)

YES NO



I have supplied further information related to this page in Section 5

YES NO

10C FCA senior management regime for approved persons in relevant authorised persons

10C.1 Application

...

EEA relevant authorised persons: general application

10C.1.4 R This chapter does not apply to an *EEA relevant authorised person* if and in so far as the question of whether a *person* is fit and proper to perform a particular function in relation to that *firm* is reserved to an authority in a country or territory outside the *United Kingdom* under:

- (1) the *Single Market Directives*;
- (2) the *Treaty*;
- (3) the *auction regulation*;
- (4) the *benchmarks regulation*.

...

Amend the form in SUP 10C Annex 5D (Statement of Responsibilities) as shown.

**10C Statement of responsibilities
Annex
5D**

UK RAPs Statement of Responsibilities form

...

ANNEX A

SYSC 4 Annex 1G	The main business activities and functions of a relevant authorised person
...	
	<i>(26) Providing information in relation to a specified benchmark <u>Contributing input data to a BMR benchmark administrator (other than an Annex II benchmark administrator)</u></i>
	<i>(27) Administering a <u>specified benchmark</u></i>
...	

11 **Controllers and close links**

11.1 **Application**

Application to firms

11.1.1 R This chapter applies to every *firm* except:

...

(6) a *UCITS* qualifier;

(7) a *firm* which only has permission for administering a benchmark,

as set out in the table in *SUP* 11.1.2R.

...

11.1.4 D *SUP* 11.1, *SUP* 11.2.1G, *SUP* 11.3 and *SUP* 11.7 apply to a *controller* or a proposed *controller* of a *UK domestic firm* not listed in *SUP* 11.1.1R(1) to ~~*SUP* 11.1.1R(6)~~ *SUP* 11.1.1R(7).

...

15 **Notifications to the FCA**

...

15.3 **General notification requirements**

...

Breaches of rules and other requirements in or under the Act or the CCA

15.3.11 R (1) A *firm* must notify the *FCA* of:

...

(h) a breach of any directly applicable EU regulation made under *AIFMD*; or

(i) a breach of the *benchmarks regulation* or of any directly applicable regulations or requirements made or imposed under the *benchmarks regulation*.

...

...

15B Applications and notifications under the benchmarks regulation

15B.1 Application

15B.1.1 G This chapter applies to:

- (1) every firm;
- (2) every supervised entity which applies to the FCA to endorse a benchmark in accordance with article 33 of the benchmarks regulation;
- (3) every person who applies to the FCA for recognition in accordance with article 32 of the benchmarks regulation.

15B.2 Notifications under the benchmarks regulation

15B.2.1 G (1) The benchmarks regulation imposes various directly applicable obligations for regulated benchmark administrators to provide notifications to the FCA.

(2) Those notifications should be made:

- (a) in accordance with the requirements of the benchmarks regulation; and
- (b) in such manner as the FCA directs.

15B.2.2 D (1) A firm making a notification under the benchmarks regulation must do so using the system or form indicated on the FCA's website for the relevant type of notification.

... (2) Where the FCA has not specified a method for making the relevant notification on its website, the notification should be made in accordance with SUP 15.7.4R.

15B.3 Applications to endorse a third country benchmark

15B.3.1 G (1) Article 33 of the benchmarks regulation provides that a supervised entity may apply to the FCA to endorse a benchmark or a family of benchmarks provided in a third country for their use in the EU.

(2) The FCA has directed the form in which endorsement applications should be made. The form is available on the FCA's website.

(3) A supervised entity making an endorsement application will also need to pay any applicable fee set out in FEES.

15B.3.2 D A supervised entity which wishes to apply to the FCA to endorse a benchmark should do so using the form which is available on the FCA's website.

15B.4 Applications for recognition of third country administrators

- 15B.4.1 **G** (1) Article 32 of the *benchmarks regulation* provides that a benchmark administrator located in a *third country* may apply to a *competent authority* for prior recognition.
- (2) The *FCA* has directed the form in which recognition applications should be made. The form is available on the *FCA's* website.
- (3) A *person* applying for recognition will also need to pay any applicable fee set out in *FEES*.
- 15B.4.2 **D** A *person* who wishes to apply to the *FCA* to apply for recognition should do so using the form which is available on the *FCA's* website.

...

Insert the following new TP after SUP TP 9 (Transitional Provisions in relation to the MiFID Regulation). The text is not underlined.

TP 10 Benchmarks Regulation Transitional Provisions

10.1 Purpose and application

- 10.1.1 **G** (1) *SUP TP 10* contains transitional provisions relating to the changes to the *Regulated Activities Order* which have been made as a result of the *benchmarks regulation*.
- (2) It also deals with the mechanism for finalising authorisation and approval applications where they have been submitted in draft prior to [XXX] 2018.
- 10.1.2 **G** (1) This TP applies to all *firms*.
- (2) The direction in *SUP TP 10.3* also applies to unauthorised *persons*.
- 10.1.3 **G** *SUP TP 10.5* contains definitions for the purposes of *SUP TP 10*.

10.2 Overview

- 10.2.1 **G** (1) The *benchmarks regulation* applies from 1 January 2018.
- (2) Article 34 of the *benchmarks regulation* requires the administrator of a *benchmark* to be authorised or registered. There is no corresponding requirement in relation to *benchmark contributors*.
- (3) In the *UK*, the requirement for administrators to be authorised or registered has been given effect through the introduction of a new *regulated activity (administering a benchmark)* which replaces the *regulated activity of administering a specified benchmark*.

- (4) The Financial Services and Markets Act 2000 (Benchmarks) Regulations [2018] therefore makes the following changes to the *Regulated Activities Order* as a result of the *benchmarks regulation*:
- (a) it introduces a new *regulated activity: administering a benchmark* (article 63OA of the *Regulated Activities Order*);
 - (b) it provides that where a *person* (P) does not have *permission* to carry on the new *regulated activity*, P does not carry on that *regulated activity* unless and until P is required to be authorised or registered under the *benchmarks regulation*;
 - (c) it provides that a *person* does not carry on the *regulated activity* of *administering a specified benchmark* (article 63O(1)(b) of the *Regulated Activities Order*) if that *person* has *permission* to carry on the new *regulated activity* of *administering a benchmark*; and
 - (d) it provides that a *person* does not carry on the *regulated activity* of *providing information in relation to a specified benchmark* (B) (article 63O(1)(a) of the *Regulated Activities Order*) if the administrator of B has *permission* to carry on the new *regulated activity* of *administering a benchmark*.

- 10.2.2 G (1) The effect of the changes above is as follows.
- (2) A *firm* which, immediately before 1 January 2018, had a *Part 4A permission* in relation to *administering a specified benchmark* (a pre-BMR administrator) continues to have that *Part 4A permission* until the earlier of such time as:
- (a) it obtains a *Part 4A permission* in relation to the new *regulated activity* of *administering a benchmark*; or
 - (b) its *Part 4A permission* in relation to *administering a specified benchmark* is removed.
- (3) A *firm* which, immediately before 1 January 2018, had a *Part 4A permission* in relation to *providing information in relation to a specified benchmark* (a pre-BMR submitter) continues to have that *Part 4A permission* in respect of the relevant *specified benchmark* until the earlier of such time as:
- (a) that *Part 4A permission* is removed; or
 - (b) the *benchmark administrator* of the relevant *specified benchmark* obtains a *Part 4A permission* in relation to the new *regulated activity* of *administering a benchmark*.
- (4) The *rules* which applied to pre-BMR administrators and pre-BMR submitters prior to 1 January 2018 will continue to apply to those

firms until their pre-BMR permissions have been removed or (in the case of a pre-BMR administrator) until they have been authorised to *administer a benchmark*.

- (5) *Persons* who administer, *contribute input data* to or use a *benchmark* should also note the transitional provisions in article 51 of the *benchmarks regulation*.

10.2.3 G The above means that:

- (1) (a) A *firm* (A) which, prior to 1 January 2018, had a *Part 4A permission to administer a specified benchmark* and which wishes to continue administering that benchmark, will need to apply for a *Part 4A permission* in relation to *administering a benchmark* (subject to the transitional provision in article 51 of the *benchmarks regulation*).
- (b) A's existing *Part 4A permission* (for benchmark administration) will be removed when it obtains the new *Part 4A permission*.
- (c) Until that point, A will continue to be subject to the *rules* which applied to *benchmark administrators* immediately prior to 1 January 2018.
- (2) A *firm* which wishes to start *administering a benchmark* on or after [XXX] 2018 will need to apply for a *Part 4A permission* in relation to *administering a benchmark* (subject to the transitional provision in article 51 of the *benchmarks regulation*).
- (3) (a) A *firm* (F) which has a *Part 4A permission to provide information in relation to a specified benchmark* will no longer require that *permission* when the administrator (A) of that *specified benchmark* is authorised in relation to *administering a benchmark*.
- (b) F's existing *Part 4A permission to provide information in relation to a specified benchmark* will be removed when A is authorised to *administer a benchmark*.
- (c) Until that point, F will continue to be subject to the *rules* which applied to *benchmark submitters* immediately prior to 1 January 2018.

10.3 Transitional provisions relating to application forms

10.3.1 D Where a *person* has submitted a benchmark administration application form to the *FCA* in draft before [XXX] 2018, the *FCA* will treat that application form as a final application form if, on or after [XXX] 2018, that *person*:

- (1) informs the *FCA* in writing that the draft application form should be treated as final;

- (2) provides the *FCA* with any information required by the final version of the form which was not provided as part of the draft application form; and
- (3) pays any applicable fee required by *FEES*.

10.3.2 G (1) A person who wishes to apply for a *Part 4A permission* in relation to *administering a benchmark* may do so from [XXX] 2018 and must submit various forms including:

- (a) the relevant authorisation application form in accordance with Part 4A of the *Act*; and
- (b) the relevant Form A for any persons who will be performing controlled functions (see *SUP 10A* and *SUP 10C* in the *FCA Handbook* and ‘Senior Managers Regime – Applications and Notifications’ in the *PRA Rulebook*).

(2) The *FCA* has enabled applicants to submit the application forms in (a) and (b) in draft in advance of 1 January 2018 and has made draft versions of the forms available for that purpose. The final versions of the forms are available from [XXX] 2018.

(3) *SUP TP 10.3.1D* means that a draft application form will be treated as a final application form where, on or after [XXX] 2018, the applicant complies with *SUP TP 10.3.1D*(1) to (3). However, the *FCA* may still require applicants to provide additional information after that point in accordance with article 34(5) of the *benchmarks regulation*.

10.4 Transitional provision: the application of the previous version of the Supervision manual

10.4.1 G (1) As is explained in *SUP TP 10.2*, the existing *rules* applicable to pre-BMR administrators and pre-BMR submitters will continue to apply to those *firms* until their *Part 4A permission* in relation to *administering a specified benchmark* or *providing information in relation to a specified benchmark* has been removed or (where applicable in the case of a pre-BMR administrator), they have been authorised to *administer a benchmark*.

(2) That includes some *rules* in the Supervision manual which have been amended or deleted with effect from [XXX] 2018. The table in *SUP TP 10.4.2* specifies which of the amended or deleted *rules* in the Supervision manual continue to apply and how.

10.4.2

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in	(6) Handbook provision: coming into force
-----	--	-----	----------------------------	--------------------------------------	---

				force	
1	SUP 3.1.1R	R	<p>The <i>rule</i> in column 2, as it was on 31 December 2017, continues to apply to:</p> <p>(1) a <i>benchmark submitter</i> in relation to LIBOR until the administrator of that benchmark becomes authorised or registered under the <i>benchmarks regulation</i>; and</p> <p>(2) a <i>benchmark administrator</i> in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i>, or ceases to be authorised for <i>administering a specified benchmark</i>.</p>	From [XXX] 2018	
2	SUP 10A.1.22R	R	<p>The <i>rule</i> in column 2, as it was on 31 December 2017, continues to apply to a <i>benchmark submitter</i> in relation to LIBOR until the administrator of that benchmark becomes authorised or registered under the <i>benchmarks regulation</i>.</p>	From [XXX] 2018	
3	SUP 10A.4.4R and SUP 10A.7.1.12R	R	<p>The <i>rules</i> in column 2, as they were on 31 December 2017, continue to apply to a <i>benchmark submitter</i> in relation to LIBOR until the administrator of that benchmark becomes</p>	From [XXX] 2018	

			authorised or registered under the <i>benchmarks regulation</i> .		
4	<i>SUP</i> 10A.4.4R and <i>SUP</i> 10A.7.1.13R	R	The <i>rules</i> in column 2, as they were on 31 December 2017, continue to apply to a <i>benchmark administrator</i> in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i> , or ceases to be authorised for <i>administering a specified benchmark</i> .	From [XXX] 2018	
5	<i>SUP</i> 10A.8.2R	R	The <i>rule</i> in column 2, as it was on 31 December 2017, continues to apply to a <i>benchmark administrator</i> in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i> , or ceases to be authorised for <i>administering a specified benchmark</i> .	From [XXX] 2018	
6	<i>SUP</i> 10A.8.2R	R	The <i>rule</i> in column 2, as it was on 31 December 2017, continues to apply to a <i>benchmark submitter</i> in relation to LIBOR until the administrator of that benchmark becomes authorised or registered under the <i>benchmarks regulation</i> .	From [XXX] 2018	

10.5 Terms used in *SUP* TP 10

10.5.1 R The terms in the first column of the table in *SUP* TP 10.5.2R have the meaning in the corresponding row of column 2.

10.5.2 R Table: glossary of bespoke terms used in *SUP* TP 10.

benchmark administration application form	The following forms:	
	(a)	the authorisation and registration application forms which the <i>FCA</i> has directed must be used when applying for a <i>Part 4A permission</i> in relation to <i>administering a benchmark</i> ; and
	(b)	any other form which the <i>FCA</i> has directed should be submitted when applying for a <i>Part 4A permission</i> in relation to <i>administering a benchmark</i> .
pre-BMR benchmark administrator	A <i>firm</i> which, immediately before 1 January 2018, had a <i>Part 4A permission</i> in relation to <i>administering a specified benchmark</i> .	
pre-BMR benchmark submitter	A <i>firm</i> which, immediately before 1 January 2018, had a <i>Part 4A permission</i> in relation to <i>providing information in relation to a specified benchmark</i> .	
pre-BMR benchmark permission	A <i>Part 4A permission</i> which was granted on or before 31 December 2017 in relation to:	
	(a)	<i>administering a specified benchmark</i> ; or
	(b)	<i>providing information in relation to a specified benchmark</i> .
LIBOR	The London Interbank Offered Rate, also known as LIBOR.	

Annex L

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Treating complainants fairly

1.1 Purpose and application

...

1.1.5 R This chapter does not apply to:

...

- (3) an *authorised professional firm* in respect of expressions of dissatisfaction about its *non-mainstream regulated activities*;
- (4) *complaints* in respect of *auction regulation bidding*;
- (5) a *full-scope UK AIFM*, *small authorised UK AIFM* or an *incoming EEA AIFM*, for *complaints* concerning *AIFM management functions* carried on for an *AIF* that is a *body corporate* unless it is a *collective investment scheme*; ~~and~~
- (6) a *depository*, for *complaints* concerning activities carried on for an *AIF* that is:
 - (a) a *body corporate* unless it is a *collective investment scheme*; or
 - (b) another type of *AIF* unless it is:
 - (i) an *authorised AIF*; or
 - (ii) an *ELTIF*; or
 - (iii) a *charity AIF*; ~~and~~
- (7) *complaints* in respect of *administering a benchmark*.

...

1 Annex 2G Application of DISP 1 to type of respondent/complaint

...

Type of respondent/complaint	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules
...						
<i>designated finance platform in relation to complaints about providing specified information</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Does not apply
<u><i>complaints relating to administering a benchmark</i></u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>	<u>Does not apply</u>

...

2 Jurisdiction of the Financial Ombudsman Service

...

2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

- 2.3.1 R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *firm* in carrying on one or more of the following activities:

- (1) *regulated activities* (other than *auction regulation bidding* and administering a benchmark);

...

...

Annex M

Amendments to the Credit Unions sourcebook (CREDS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Senior management arrangements, systems and controls

2.1 Application and purpose

Application

2.1.1 R This chapter applies to all *credit unions*.

2.1.1A G With the exception of CREDS 2.2.14G to CREDS 2.2.17G and CREDS 2.2.65G to CREDS 2.2.70G, this chapter is not relevant to a credit union in relation to its benchmark activities.

Purpose

...

2.1.3 G (1) This chapter is also intended to remind *credit unions* that the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) also contains a number of high level *rules* and *guidance* relating to senior management arrangements, systems and controls designed to have general application to all *firms*, including *credit unions*. Subject to the exceptions in (2) and (3) below, SYSC 1, SYSC 4 to SYSC 10 and SYSC 21 apply to all credit unions in respect of the carrying on of their regulated activities and unregulated activities in a prudential context. SYSC 18 applies to all credit unions in respect of both their regulated activities and unregulated activities.

(2) SYSC 4 to SYSC 10 (other than SYSC 4.5 to SYSC 4.9 and SYSC 4 Annex 1) and SYSC 14 do not apply to a firm (including a credit union) in relation to its carrying on benchmark activities (see SYSC 1 Annex 1 for the detailed rules on the application of SYSC 4 to SYSC 10).

(3) SYSC 4 to SYSC 10 (other than SYSC 6.1.1R (which only applies to a limited extent) and SYSC 6.3) do not apply to a firm (including a credit union) in relation to its carrying on of auction regulation bidding (see SYSC 1 Annex 1 for the detailed rules on the application of SYSC 4 to SYSC 10).

...

10 Application of other parts of the Handbook to ~~Credit~~ credit unions

10.1 Application and purpose

...

Application of other parts of the Handbook and of Regulatory Guides to Credit Unions

10.1.3

G

Module	Relevance to Credit Unions
...	
Compensation (<i>COMP</i>)	<i>COMP</i> sets out <i>rules</i> relating to the scheme for compensating consumers when authorised <i>firms</i> are unable, or likely to be unable, to satisfy claims against them.
<u>General guidance on Benchmark Administration, Contribution and Use</u> (<i>BENCH</i>)	<u><i>BENCH</i> provides guidance about which parts of the Handbook are relevant to a firm when carrying out benchmark activities and when using a benchmark. It also provides guidance about the benchmarks regulation.</u>
...	

Annex N

**Amendments to General guidance on Benchmark ~~Submission and Administration,~~
Contribution and Use (BENCH)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Handbook requirements in relation to benchmark ~~submission~~ contribution activity and benchmark administration activity

1.1 Application and purpose

1.1.1 G This special guide is for *firms* which:

- (1) carry out the *regulated activities* activity of ~~providing information in relation to a specified benchmark~~ and ~~administering a specified benchmark~~;
- (2) contribute input data to a BMR benchmark administrator; or
- (3) use a benchmark.

Purpose

1.1.2 G The purpose of this special guide is to:

- (1) help ~~benchmark submitters and regulated benchmark administrators~~ by setting out which parts of the *Handbook* apply to them when they carry out the *regulated activities* activity of ~~providing information in relation to a specified benchmark~~ ~~or administering a specified benchmark~~;
- (2) help benchmark contributors by setting out which parts of the *Handbook* apply to them when they provide input data to a BMR benchmark administrator;
- (3) remind all firms of their obligations under the benchmarks regulation when using a benchmark.

~~Other parts of the Handbook will apply to benchmark submitters or to benchmark administrators in respect of other regulated activities they carry out.~~

Benchmarks Regulation and transitional arrangements

- 1.1.3 G
- (1) The benchmarks regulation applies from 1 January 2018.
 - (2) Various changes were made to the Regulated Activity Order as a result of the benchmarks regulation. In particular:

- (a) There is a new *regulated activity* of: *administering a benchmark* (article 63OA).
- (b) The regulated activity of *administering a specified benchmark* will cease to apply (subject to the transitional provisions described in *SUP TP 10*).
- (c) The *regulated activity* of *providing information in relation to a specified benchmark* will cease to apply (subject to the transitional provisions described in *SUP TP 10*). However, *firms which contribute input data to a BMR benchmark administrator* are still subject to various requirements in the *Handbook* and are subject to the *benchmarks regulation* when doing so.
- (3) *SUP TP 10* contains *guidance* on the transitional arrangements governing the changes to the *regulated activities* above.
- (4) The following transitional provisions are also relevant to a *firm* which, immediately before 1 January 2018, was authorised to *administer a specified benchmark* or to *provide information in relation to a specified benchmark*:
 - (a) *SYSC TP 6*;
 - (b) *FEES TP 17AR*;
 - (c) *MAR TP 1*; and
 - (d) *SUP TP 10*.

2 **Parts of the Handbook applicable to ~~benchmark submission activity and benchmark administration activity~~ regulated benchmark administrators and benchmark contributors**

2.1 **Parts of the Handbook applicable to ~~benchmark submission activity and benchmark administration activity~~ regulated benchmark administrators**

- 2.1.1 G (1) The parts of the *Handbook* applicable to ~~*benchmark submitters* and to *benchmark administrators*~~ *regulated benchmark administrators* when they carry out the *regulated activities* *activity* of *providing information in relation to a specified benchmark* or *administering a specified benchmark* ~~*administering a benchmark*~~ are listed in *BENCH 2.1.2G*. ~~*Benchmark submitters* and *benchmark administrators*~~ should read applicable parts of the *Handbook* to find out what the detailed regulatory requirements are for the *regulated activities* of *providing information in relation to a specified benchmark* and ~~*administering a specified benchmark*~~.
- (2) *Regulated benchmark administrators* should read the applicable parts

of the Handbook to find out what the detailed regulatory requirements are for the regulated activity of administering a benchmark. Firms should note that in some cases, different Handbook provisions apply depending on whether the regulated benchmark administrator is an Annex II benchmark administrator (see MAR 8.5.2R, MAR 8.5.4R and MAR 8.5.7R).

- (3) Regulated benchmark administrators which also carry on other regulated activities may be subject to other parts of the Handbook as well. The table in BENCH 2.1.2G does not refer to those.
- (4) In some cases, the application of other parts of the Handbook is excluded in relation to a firm's benchmark activities (see the relevant Handbook provisions for the detailed application).
- (5) Regulated benchmark administrators are also reminded of their directly applicable obligations under the benchmarks regulation and legislation made under that regulation.

2.1.2 G Parts of the Handbook applicable to the regulated activities activity of providing information in relation to a specified benchmark and administering a specified benchmark benchmark.

	Part of the Handbook	Applicability to the regulated activity of providing information in relation to a specified benchmark and of administering a specified benchmark
High Level Standards	Principles for Business (PRIN)	This applies.
	Senior management Management Arrangements, Systems and Controls (SYSC)	This applies. <u>The detailed application of this is set out in SYSC 1 Annex 1. However, in general, only the following parts of SYSC will be relevant to a firm which only has permission to carry on the regulated activity of administering a benchmark:</u> <ul style="list-style-type: none"> a) <u>SYSC 1;</u> b) <u>SYSC 4.5-4.9 and SYSC 4 Annex I;</u> c) <u>SYSC 18.3.9G;</u> d) <u>SYSC 22.</u>
	Threshold Conditions (COND)	This applies.

	Statements of Principle and Code of Practice for Approved Persons (APER)	This applies to an <i>approved person</i> of a <i>firm</i> that is not a <i>relevant authorised person</i> who performs a benchmark submission function or a benchmark administration function.
	Code of Conduct sourcebook (COCON)	This applies to <i>conduct rules staff</i> of <i>relevant authorised persons</i> .
	The Fit and Proper test for Approved Persons and <u>specified significant-harm functions</u> (FIT)	This applies.
	General Provisions (GEN)	This applies. <u>However, the application of GEN 4 is very limited in relation to administering a benchmark. GEN 7 does not apply to the activity of administering a benchmark.</u>
	Fees Manual (FEES)	This applies.
Business Standards	Market Conduct Sourcebook (MAR)	MAR 1 (Market Abuse), MAR 2 (Stabilisation) and MAR 8 (Benchmarks) apply.
Regulatory Processes	Supervision Manual (SUP)	This applies subject to the following qualifications: (a) In general only the following parts of SUP will be relevant to a <i>firm</i> which only has <u>permission to carry on the regulated activity of administering a benchmark: SUP 1-2, SUP 5-8, SUP 9-10C and SUP 15 and 15B.</u> (b) SUP 10A only applies to a <u>regulated benchmark administrator</u> which is not a <u>relevant authorised person</u> (but not all <u>controlled functions</u> apply to a <i>firm</i> which <u>only has permission to carry on the regulated activity of administering a benchmark.</u>

		<p><i>(c) SUP 10C only applies to a regulated benchmark administrator which is a relevant authorised person.</i></p> <p>with the following qualifications:</p> <p><i>(a) SUP 4 (Actuaries), SUP 12 (Appointed representatives), SUP 13 (Exercise of passport rights by UK firms), SUP 13A (Qualifying for authorisation under the Act), SUP 14 (incoming EEA firms changing details and cancelling qualification for authorisation), SUP 17 (Transaction Reporting), SUP 18 (Transfer of business), SUP 21 (Waiver), SUP App 2 (Insurers: Regulatory Intervention points and run-off plans) and SUP App 3 (Guidance on passporting issues) will not be relevant to the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark</i></p>
	Decision Procedure and Penalties Manual (DEPP)	This applies.
Redress	Dispute Resolution: the Complaints sourcebook (DISP)	<p>All firms are subject to the <i>Compulsory Jurisdiction</i> of the <i>Financial Ombudsman Service</i>.</p> <p>However, a <i>firm</i> which does not, and notifies the <i>FCA</i> under <i>DISP</i> 1.1.12R that it does not, conduct business with <i>eligible complainants</i> (persons eligible to have a <i>complaint</i> considered by the <i>Financial Ombudsman Service</i>, as defined in <i>DISP</i> 2.7) will be exempt from the <i>rules</i> on treating complaints fairly (<i>DISP</i> 1.2 to <i>DISP</i> 1.11) and from the <i>Financial Ombudsman Funding rules</i> (<i>FEES</i> 5.1 to <i>FEES</i> 5.7).</p> <p>The definition of the <i>regulated activities</i> of <i>providing information in relation to a specified benchmark</i> and <i>administering a specified benchmark</i> mean that <i>benchmark submitters</i> and <i>benchmark administrators</i> will qualify for these exemptions if it applies for them.</p>
Handbook	Special Guide for	This applies.

Guides	<u>benchmark administrator's General guidance on Benchmark Administration, Contribution and Use (BENCH)</u>	
Regulatory Guides	The Enforcement Guide (EG)	This applies.
	The Perimeter Guidance Manual (PERG)	This applies.
Glossary of definitions		This applies.

2.2 **Parts of the Handbook applicable to benchmark contributors**

- 2.2.1 **G** (1) The regulated activity of providing information in relation to a specified benchmark no longer applies except in limited circumstances (see SUP TP 10 for an explanation of those circumstances).
- (2) Contributing input data to a BMR benchmark administrator is not a regulated activity. However, benchmark contributors are still subject to various obligations under the benchmarks regulation and the Handbook.
- (3) Benchmark contributors are reminded of the following provisions in or made under the benchmarks regulation:
- (a) article 15 (Code of conduct);
 - (b) article 16 (Governance and control requirements for supervised contributors); and
 - (c) article 23 (Mandatory contribution to a critical benchmark).
- (4) Benchmark contributors, as authorised persons, are subject to requirements under the Handbook. However, in some cases the application of the Handbook is excluded in relation to a firm's activities as a benchmark contributor (see the relevant Handbook provisions for their detailed application).

- (5) Benchmark contributors are also subject to the following rules which apply only to benchmark contributors:
- (a) MAR 8.4 (Third country benchmark contributors); and
 - (b) MAR 8.6 (Responsibility for benchmark activities: benchmark contributors).
- (6) However, some provisions in MAR are disapplied where a firm is contributing input data in relation to a commodity benchmark the provision of which is governed by Annex II to the benchmarks regulation (see MAR 8.4.1R and MAR 8.6.1R).

2.3 Guidance for benchmark users: articles 28 and 29 of the benchmarks regulation

- 2.3.1 G All supervised entities are reminded of the requirements of articles 28(2) and 29 of the benchmarks regulation.
- 2.3.2 G (1) Article 28(2) imposes requirements on supervised entities in relation to the need to produce and maintain robust written plans setting out the actions that they would take in the event that a benchmark which they use materially changes or ceases to be provided.
- (2) The effect of the prohibition in article 29 is that, subject to the exclusions in article 2 of the benchmarks regulation, a firm which is a supervised entity may only use a benchmark in cases where:
- (a) if the benchmark administrator is located in the EU, the benchmark administrator is listed in the register maintained by ESMA under article 36 of the benchmarks regulation; or
 - (b) if the benchmark administrator is located outside the EU, the benchmark administrator and the benchmark itself is listed in the register maintained by ESMA under article 36 of the benchmarks regulation.
- 2.3.3 G In considering articles 28(2) and article 29, firms will need to consider the benchmarks regulation and legislation made under that regulation. Firms should also note the points below.
- (1) “Use of a benchmark” is defined in article 3.1(7) of the benchmarks regulation. ESMA has provided guidance on that definition in the form of “Q&As”. That guidance is available on ESMA’s website.
 - (2) Article 28(2) and article 29 of the benchmarks regulation do not apply to the use of a benchmark in cases which are excluded from the requirements of the benchmarks regulation (see article 2 of the regulation);

- (3) The prohibition in article 29 of the *benchmarks regulation* is subject to the transitional provisions in article 51 of that regulation.
- (4) ESMA has produced guidance (in the form of “Q&As”) on various aspects of the *benchmarks regulation*. That guidance is available on ESMA’s website.

Annex O

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Authorisation and regulated activities

...

2.3 The business element

...

- 2.3.4 G ~~A person carrying out the activity of administering a specified benchmark or providing information in relation to a specified benchmark will always be carrying out these activities by way of business. [deleted]~~

...

2.4 Link between activities and the United Kingdom

...

- 2.4.8 G ~~For the avoidance of doubt, a person who is based outside of the United Kingdom but who makes benchmark submissions to a benchmark administrator is carrying out regulated activities in the United Kingdom. [deleted]~~

...

2.5 Investments and activities: general

...

- 2.5.1A G The regulated ~~activities~~ activity of ~~providing information in relation to a specified benchmark and administering a specified benchmark~~ do ~~do~~ not require the involvement of a *specified investment* in any way.

...

2.7 Activities: a broad outline

...

~~Specified benchmarks activities~~

- 2.7.20D G ~~There are two regulated activities associated with specified benchmarks~~
 (1) ~~providing information in relation to a specified benchmark; and~~

- (2) ~~administering a specified benchmark~~ [deleted]
- 2.7.20E G ~~A person will be providing information in relation to a specified benchmark where information or an expression of opinion necessary to determine a specified benchmark is provided to, or for the purposes of passing to, a benchmark administrator for the purpose of administering a specified benchmark.~~ [deleted]
- 2.7.20E G It follows from *PERG 2.7.20EG* that a person who, in the context of an auction or otherwise, submits bids or offers solely for the purpose of transacting in a commodity or financial instrument or any other asset for their own, or their client's, behalf will not normally be providing information in relation to a specified benchmark. [deleted]
- A
- 2.7.20F G We expect that only firms which are members of a benchmark submission panel will carry out the activity of providing information in relation to a specified benchmark. [deleted]
- 2.7.20G G A person is not providing information in relation to a specified benchmark where the information he is providing:
- (1) consists solely of factual data obtained from a publicly available source; or
- (2) is compiled by a subscription service for purposes other than in connection with the determination of a specified benchmark and is provided to a benchmark administrator only in the administrator's capacity as a subscriber to the service. [deleted]
- 2.7.20G G A person in *PERG 2.7.20EAG* would also not normally be providing information in relation to a specified benchmark if:
- A
- (1) the information is made available to the benchmark administrator by a third party; and
- (2) the third party can rely on any exemption in *PERG 2.7.20GG*. [deleted]
- 2.7.20H G The activity of administering a specified benchmark comprises:
- (1) administering the arrangements for determining the benchmark;
- (2) collecting, analysing or processing information or expressions of opinion provided for the purpose of determining a specified benchmark; or
- (3) determining a specified benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose. [deleted]
- 2.7.20I G For the avoidance of doubt, a firm who is a benchmark submitter is not

~~expected to be carrying out the activities mentioned in PERG 2.7.20HG (2) if it collects, analyses or processes information or expressions of opinion for the purposes of making its own submissions. [deleted]~~

2.7.20J G ~~Specified benchmarks are listed in Schedule 5 to the Regulated Activities Order; since 1 April 2015 the following are specified benchmarks:~~

- ~~(1) the London Interbank Offered Rate (LIBOR);~~
- ~~(2) ICE SWAP RATE;~~
- ~~(3) Sterling Overnight Index Average (SONIA);~~
- ~~(4) Repurchase Overnight Index Average (RONIA);~~
- ~~(5) WM/Reuters London 4 p.m. Closing Spot Rate;~~
- ~~(6) LBMA Gold Price;~~
- ~~(7) LBMA Silver Price;~~
- ~~(8) ICE Brent Index. [deleted]~~

...

Pub ref: 005562



© Financial Conduct Authority 2017
25 The North Colonnade Canary Wharf London E14 5HS
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk
All rights reserved