Consultation Paper

CP12/36***

The regulation and supervision of benchmarks

December 2012

Financial Services Authority

Contents

The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by 16 January 2013.

Comments may be sent by electronic submission using the form on the FSA's website at: www.fsa.gov.uk/Pages/Library/Policy/CP/2012/cp12–36–response.shtml.

Alternatively, please send comments in writing to:

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A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

APER	The Statements of Principle and Code of Practice for Approved Persons
BBA	British Bankers' Association
BENCH	Proposed new Handbook guide to provide guidance for firms doing benchmark administration
COND	Threshold Conditions
CP	Consultation Paper
DP	Discussion Paper
FCA	Financial Conduct Authority
FIT	The Fit and Proper test for Approved Persons
FSA	Financial Services Authority
GEN	General Provisions
LIBOR	London Inter–Bank Offered Rate
MAR	Market Conduct (MAR) section of our Handbook.
PRA	Prudential Regulation Authority
PRIN	Principles of Business
SYSC	Systems and Controls rules

1 Overview

1.1 Benchmarks are used across financial markets in a broad range of activities. They have historically been set by the financial markets themselves, and existed outside of any regulatory regime. But this industry–led approach has failed in the case of the London Inter–Bank Offered Rate (LIBOR) benchmark.

1.2 As repeated manipulation attempts have come to light the credibility of LIBOR has been threatened. This has called into question the unregulated status of the setting of benchmarks more generally. In response, the government has begun to legislate for the regulation of benchmark submission and administration in the future, with LIBOR as the first benchmark to be brought in to the new regime. In this Consultation Paper (CP), we outline our proposed approach to enacting this policy, focusing on LIBOR: we ask for your feedback on our proposals.

1.3 It is also widely accepted that it is important to preserve the continuity of the LIBOR benchmark, and that a larger range of submitters to LIBOR would enhance its integrity. So Chapter 4 serves as a Discussion Paper on how best to broaden participation in the specific LIBOR benchmark to prompt discussion. We may ultimately have to do this by requiring firms to participate, so Chapter 4 also suggests criteria for the identification of suitable submitters.

Manipulation of the LIBOR benchmark

1.4 LIBOR was created in the 1980s as an interest–rate benchmark to price unsecured loans between banks. It is administered by the British Bankers' Association (BBA), based on daily submissions from a group of financial institutions. Today, LIBOR is widely used by market participants across the globe in products with an estimated contract value of around $300 trillion. As such, it represents the most widely used benchmark in global financial markets.

1.5 Since 2009 a number of international regulators (including the FSA) have been investigating suspected widespread misconduct in setting LIBOR. Many of these investigations are still

ongoing, but they came to prominence on 27 June 2012 when we fined Barclays Bank plc £59.5m[1] for significant failings when making its submissions to the LIBOR process.[2] This is just one of several current investigations into LIBOR: it simply happens to be the first to conclude.

1.6 From the breadth of cases under investigation, it is clear that there have been widespread failings in the industry–led regulation of LIBOR, and confidence in the rate has suffered. This is a serious matter. The integrity of benchmark reference rates such as LIBOR is important for the stable and efficient operation of a wide range of UK and international financial markets. Moreover, this type of misconduct has the potential to cause serious harm to market participants and damage market confidence.

The Wheatley Review and the Financial Services Bill

1.7 Once the scale of the attempts to manipulate LIBOR became clear, the Chancellor asked Martin Wheatley[3] to conduct an end–to–end review of the LIBOR process. The Review's final report was published on 28 September 2012[4] and outlined a plan to overhaul the LIBOR system. A summary of the Wheatley Review plan is in Annex 4 to this paper, but one of its key recommendations was that while the setting of LIBOR should remain an industry–led activity; the submission to, and administration of, the rate should be regulated.

1.8 On 17 October 2012 the government accepted the Review's recommendations in full, and amended the upcoming Financial Services Bill (the Bill) accordingly. The Bill will amend the Bank of England Act 1998, the Financial Services and Markets Act 2000 and the Banking Act 2009. In so doing it defines the powers of the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA), the successor organisations to the FSA. All firms will be regulated by the FCA, but some larger financial institutions will also be regulated by the PRA for prudential purposes: these are known as 'dual regulated' firms.

1.9 The Treasury expects to exercise its new powers contained within the Bill to amend the Regulated Activities Order (RAO), and create two new activities. These will be '**providing information in relation to a regulated benchmark**' and '**administering a regulated benchmark**'. The Treasury is currently consulting on these amendments.[5] The new powers over benchmarks are therefore expected to be in place in Spring 2013 and be exercised by the FCA.

1.10 At least initially, the only 'regulated benchmark' in the UK will be LIBOR, but the new regime will be generic enough to be applied to other benchmarks in the future, were the government to consider it appropriate to do so.

1 www.fsa.gov.uk/static/pubs/final/barclays–jun12.pdf
2 Barclays was separately fined $360m by the US authorities for attempted manipulation of and false reporting concerning LIBOR and EURIBOR benchmarks over a four–year period beginning as early as 2005.
3 CEO designate of the Financial Conduct Authority (FCA).
4 www.hm–treasury.gov.uk/wheatley_review_libor_finalreport_280912.pdf
5 www.hm-treasury.gov.uk/d/implementing_wheatley_review281112.pdf

Our proposed approach to regulating benchmarks

1.11 We have considered both the Wheatley Review recommendations and the Treasury's proposed legislative amendments in designing an FCA approach to regulating the setting of benchmarks (and the LIBOR process specifically, in the first instance).

1.12 This new approach will revolve around clear and unambiguous rules and guidance laid out in the Market Conduct (MAR) section of our Handbook. These will be subdivided into rules and guidance[6] for each regulated activity. In this CP, we explain both sets of rules and guidance. To further enhance accountability and ensure compliance with our rules, we are proposing that individuals in management roles in relation to the new regulated activities will have to become FCA–approved persons, managed via our controlled functions regime. In outline, we are proposing that:

- we will require benchmark administrators to corroborate submissions and monitor for any suspicious activity;
- we will require those submitting to benchmarks to have in place a clear conflicts of interest policy and appropriate systems and controls; and
- in both cases we will be requiring the regulated entities to have FCA approved persons in key positions.

Criminal sanctions in the Bill

1.13 The Wheatley Review also recommended creating a new criminal offence related to manipulation (or attempted manipulation) of specified benchmarks. To achieve this, the government has proposed a new offence under the Bill, relating to the making of false or misleading statements, or the creation of false or misleading impressions in relation to specified benchmarks (such as LIBOR). This offence is not covered in this CP but it has a broad scope and could affect any third party involved in an attempt to manipulate LIBOR – so firms should be aware of it when reading this CP.

Is your firm affected by these changes?

1.14 These changes will be of interest to the administrator and all firms that currently submit to, or use benchmarks as part of their ongoing business. It will also be of interest to other financial institutions with a significant profile in global markets referencing benchmarks, as they may be regulated in the future. These changes may also be of indirect interest to consumers.

6 For definitions see the handbook reading guide – www.fsa.gov.uk/pages/Handbook/readers_guide.pdf

Next steps

1.15 This consultation will remain open until 16 January 2013, so please send us your responses to our proposals by then. We will consider any responses we receive with a view to publishing our Policy Statement and finalised Handbook text in March 2013.

1.16 The part of this paper which takes the form of a Discussion Paper (Chapter 4), will be open until 13 February 2013, so if you have any comments please send them to us by then. This will inform how we engage with the industry and make future policy when we get the new powers the government intends to grant us.

1.17 We intend these new Handbook provisions to be in force when the Treasury's RAO amendments take effect. This relies on the Bill attaining Royal Assent and the appropriate secondary legislation being in force. While this proposal is consistent with the RAO text the Treasury is consulting on, if that text changes we will amend our legal text accordingly.

2

Benchmark administrators

Weaknesses in LIBOR administration

2.1 The Wheatley Review found three key weaknesses in the current administration of LIBOR:

- Insufficient independence of the governance structures, which relied too heavily on the participating banks and their own industry organisation.
- Inadequate oversight structures, such as the lack of systematic oversight of systems and controls within contributing banks.
- Limited transparency and accountability of the governance structures.

2.2 The Review concluded that the best way to eliminate these failings would be to transfer responsibility for LIBOR to a new authorised administrator (regulated by the FCA), focused on the governance and oversight of the process.

2.3 This will be reflected in legislation through the regulation of benchmarks (starting with LIBOR). It therefore falls to the FCA to create and supervise a regulatory regime for benchmarks.

Benchmark rules: administration

2.4 On 17 October 2012, the Financial Secretary to the Treasury announced that 'in order to restore credibility to the LIBOR setting process, the BBA should give up its operational role with regards to the computation, administration and governance of LIBOR'. The Minister went on to state that Baroness Hogg 'has agreed to chair a panel of independent experts tasked with identifying an appropriate successor to the BBA'.[7]

2.5 As noted above, the Wheatley Review recommended that 'administering a regulated benchmark' should become a regulated activity. Once this happens any benchmark administrator (e.g the entity administering LIBOR) will be required to:

- **Have regard to the integrity of the market and continuity of the regulated benchmark when discharging its duties.**

7 www.hm–treasury.gov.uk/d/wms_fst_171012.pdf

- **Establish and maintain effective arrangements that enable it to carry out the activity of administering a benchmark.**
- **Implement credible governance and oversight measures including an oversight committee.**[8]
- **Corroborate the submissions of individual submitters,** identify breaches of submission practice standards, and notify the FCA when it suspects attempted or actual manipulation.
- **Publish aggregate statistics** outlining the activity in the underlying market relevant to the regulated benchmark.
- **Appoint an FCA-approved manager of the team responsible for its compliance with applicable benchmark rules.**
- **Through an oversight committee, create a code of practice.**
- **Through an oversight committee, undertake regular, periodic reviews** of the setting, the definition and guidelines for the submission to the benchmark.

2.6 By requiring, and then supervising these oversight and governance measures we will address the identified failings in the LIBOR benchmark and create a regime capable of being applied to other benchmarks in the future if required.

2.7 We recognise that the functions of an administrator may be carried on by more than one entity. For example, one entity could be responsible for administering the arrangements for determining a regulated benchmark (the governance of the benchmark), while another could be collecting, analysing or processing submissions and performing the necessary calculations for its determinations. In such cases, all relevant entities would require authorisation. However, in these cases we may consider using our powers to waive certain rules (or vary the application of certain rules altogether) if those rules are not relevant to the activities carried out by the relevant entity.

2.8 In our view, the market is best served by having a clear statement in one section of the Handbook of those additional rules that would apply to Benchmarks. The most logical way to achieve this is through a new, eighth, chapter in Market Conduct (MAR). There will also be a new Handbook Guide, called 'General Guidance on Benchmark Submission and Administration (BENCH)', which will define which other sections of our Handbook apply to the regulated activities (see below).

2.9 We are proposing to require the administrator to maintain effective systems that enable it to carry out the regulated activity which includes receiving benchmark submissions and determining the resultant benchmark. The administrator will then be required to arrange for the monitoring and validation of those submissions. The administrator would also be required publish quarterly statistics on activity in the relevant underlying markets.

8 This will be a committee of the administrator, but with representatives from submitters to LIBOR and other independent members.

2.10 The administrator would use this monitoring capability to observe the behaviour of benchmark submitters and identify potential instances of benchmark manipulation or breaches of its practice standards (see below). We would then expect the administrator to have an initial, internal process of identification, leading to a process of escalation to the FCA.

2.11 To govern these activities, we are proposing that the administrator be required to appoint an oversight committee. The oversight committee would be composed of benchmark users, market infrastructure providers and submitters. The committee should also have at least two independent members. The committee would be responsible for:

- considering matters of definition and scope of the benchmark; and
- exercising collective scrutiny of individual submissions.

2.12 The committee will also be required to undertake regular, periodic reviews of the nature of the benchmark (including its setting and the composition of the panels if applicable). If as a result of such review the Committee decides to amend the benchmark in any way, they must first notify the FCA, then consult the benchmark submitters and other relevant stakeholders, and have regard to any representations made as part of the consultation.

2.13 Finally, we will require the administrator, through this committee, to create, adapt and maintain a code of practice for submission to its benchmark. We envisage the FCA will recognise this code as confirmed industry guidance in line with the process described in Box 1 below. And we expect the code of practice to provide detailed guidance on operational and procedural issues of submitting to LIBOR. When the administrator wishes to alter this code of practice, we would expect them to consult the LIBOR submitters, other stakeholders and the FCA.

2.14 Such a code of practice offers advantages over detailed and prescriptive FCA rules. Our rules are designed to be outcome focused and relatively high level so as to withstand a changing market over time; whereas a detailed code can be more adaptable to changing market developments.

BOX 1

FSA confirmed industry guidance – how it works

From time to time, trade bodies or other organisations develop guidance aimed at helping their industry find a 'best practice' approach for complying with FSA rules and regulations.

As outlined in Policy Statement 07/16[9], the FSA has the ability to formally recognise such industry guidance where we believe it demonstrates best practice. If we recognise guidance developed by an industry body, this is called 'confirmed industry guidance'.

Where we confirm industry guidance, it has the same status as FSA guidance. So its main purpose is to inform market participants about what we consider to be good practice and it is not mandatory. As such, we will not presume that firms are failing to comply with our rules simply because they are not following it.

However, industry guidance can be relevant to an enforcement case where a breach has been established. It may inform our views on the seriousness of the breach and help establish whether a firm could reasonably have been expected to know that its conduct fell below the standards.

Our rules will require the LIBOR administrator to establish a code of practice for the submitters to the rate. We intend to recognise as FCA confirmed industry guidance – in line with the process set out in PS07/16 – the parts of the Code that relate to our Handbook rules for LIBOR submitters set out in the proposed new chapter 8 of MAR.

So if you are submitting to LIBOR, the guidance will help you understand how you will be able to comply with our rules. For example, this could be done by sharing banks' expertise of devising effective conflicts of interest policies or experience with building systems to capture all relevant transactions that may form the basis of a bank's LIBOR submission.

2.15 Given the importance of the administrator's role, we propose that the administrator will be subject to some high–level prudential rules. Indeed, the Wheatley Review highlighted that in the case of LIBOR, due to its widespread use as a reference rate its continuity is important for market confidence.

2.16 Our proposed prudential rules would mean that if the incumbent administrator wants to stop, or is forced to stop, carrying on the activity (for reasons such as longer–term financial viability of the business or sudden financial loss), the entity needs to hold sufficient capital to ensure business continuity to allow for an orderly transition to a new administrator. In these scenarios, a new selection would take place and the new administrator would need enough time to build its own systems and processes before taking over.

9 See Annex 1, PS07/16

2.17 We think it is reasonable to assume that these processes could be completed within nine months. So we are suggesting that the administrator will be subject to a minimum requirement to hold sufficient financial resources to discharge its functions on a day–to–day basis and cover its operating costs for six months. However, the administrator will also be expected to hold additional financial resources of up to three months as a buffer. This will mean that, in effect, the administrator should normally hold sufficient financial resources to cover nine months of operating costs.

2.18 If the administrator has an existing relationship with the FSA, and is already subject to prudential requirements in that role, then these will continue to apply. However, the administrator will still need to be able demonstrate to the FCA that it holds enough capital to meet the regulatory requirements for benchmark administration.

Q1: Do you agree that our suggested capital requirements for the administrator will give enough time for an orderly transition to a new administrator?

Q2: Are there any other rules we should consider for the administrator?

The Handbook: general provisions

2.19 In common with any regulated activity, our Principles of Business (PRIN), General Provisions (GEN), and Threshold Conditions (COND) will automatically apply to the administrator, as will the 'common platform' elements of our Systems and Controls rules (SYSC). The Statements of Principle and Code of Practice for Approved Persons (APER) and The Fit and Proper test for Approved Persons (FIT) sections will also be in effect where relevant.

2.20 As stated above, we will produce a new Handbook guide (BENCH) to provide guidance for benchmark submitters and firms conducting the activity of benchmark administration about the wider Handbook provisions that apply to this activity.

Fees

2.21 The FCA is funded only through fees paid by the organisations that it regulates. To avoid cross–subsidy between firms engaged in unrelated activities, we levy an application fee when firms first join our regulatory perimeter and then allocate our ongoing costs into 'fee blocks' based on the regulatory activities that each firm has permission to conduct.

2.22 We will recover our costs in processing the administrator's application for authorisation through an application fee. As for the LIBOR administrator the Treasury has made provisions for an interim authorisation (see below), so we will not be able to collect the fee on application. Instead, we will levy the charge when we notify the firm that we have given it full authorisation. The charge will be £25,000 and will be payable within 30 days of the date of the invoice.

2.23 In common with other market infrastructure such as recognised investment exchanges and clearing houses, we expect to allocate the cost of supervising the administrator to fee block B. The fee for the first year will be an estimate based on our assumptions of how it will be supervised. We may amend this up or down in 2014/15 based on experience gathered in the first year of operation. If the initial estimate is too high, then the administrator's second–year fees will take account of that. Currently, we anticipate a fee of £385,000.

Q3: Do you agree with our proposals for charging fees from the benchmark administrator?

Authorisation of the LIBOR administrator

2.24 As the administration of a benchmark will be a new regulated activity, any administrator will need to be authorised by the FCA. If they are currently unauthorised, then they will need to apply for authorisation. However, if they are already authorised for another regulated activity, then they only need to apply to add the new regulated activity to their existing authorisation.

2.25 In the case of the LIBOR administrator, the entity in question will already be carrying out the role of the administrator before the LIBOR regime begins. To ensure continuity, we envisage that the Treasury will make provisions for the appointed firm to hold the necessary permission by granting an 'interim–authorisation'. This means that such an entity will be able to carry on the activity when the new regime begins while we consider their application.

Approved Persons Regime

2.26 The FSA operates an Approved Persons (AP) Regime, under which individuals carrying out certain 'Controlled Function' roles within firms must first apply to us for approval to do so. These roles cover a variety of activities, most notably where we believe that individuals perform a Significant Influence Function (SIF) within a firm.

2.27 The Wheatley Review recommended that a new SIF be created for individuals managing the team responsible for calculating and corroborating daily benchmark submissions. Since the FCA will continue to operate an AP regime, we propose to create a new SIF Required

Controlled Function[10], CF50 (benchmark administration function). So the individual performing that role within the administrator firm will need to be approved by the FCA.

2.28 The Wheatley Review also identified issues with governance and oversight of benchmarks, including a lack of systematic oversight of systems and controls, and limited transparency and accountability. So, in addition to the new benchmark administration controlled function, we also expect that the following SIF controlled functions may apply, depending on the constitution of the appointed firm:

i) CF1 (Director)

ii) CF2 (Chief Executive)

iii) CF3 (Non–executive directors) – we expect individuals in this role to sit on the Oversight Committee

2.29 In the case of LIBOR, which will become a regulated benchmark at fairly short notice in 2013, we propose to consider individuals for the relevant controlled functions in parallel with our decision on the administrator's application for authorisation. So we will need to receive applications for the individual approval within two weeks of the LIBOR regime taking effect. We shall discuss the process of individual approval for the relevant controlled functions with the appointed firm as part of its application.

10 The required controlled functions form part of the Significant Influence Functions as described in SUP 10.4.

3

Submission to benchmarks

3.1 The Wheatley Review concluded that if submission to LIBOR had been an explicit regulated activity in its own right, then the FSA would have found it easier to take regulatory action against those who sought to manipulate it. A specific regulated activity is also required to allow for the Wheatley Review's recommendation that, to increase accountability, certain individuals involved in the process should be required to be performing 'controlled functions'. The Treasury plans to fill this gap by legislating to make submission to benchmarks a new regulated activity in its own right, defined as 'providing information in relation to a regulated benchmark'.

3.2 As a consequence, we now propose to introduce and supervise a regulatory regime for this new activity which will set out the specific systems and controls that a firm must have in place for making submissions to a regulated benchmark. This will result in clear, robust rules, and give firms and their employees clarity on what is expected of them.

Benchmark rules: submission

3.3 We propose to locate these rules along with those for the administrator in the new chapter of MAR. This will create a coherent chapter of the Handbook that deals with both new regulated activities.

3.4 At the most basic level, we propose that each submitting bank should have appropriate governance arrangements to oversee its submission process. Middle and senior management must oversee compliance with this submission process and there must be periodic reviews by Internal and External Audit.[11] We propose to require each firm to appoint a benchmark manager, with responsibility for overseeing the process. They will need to be an approved person (see below).

3.5 When making submissions, we are proposing that firms ensure they use an effective methodology based on objective criteria to choose, evaluate and input relevant information,

11 We think the role of external audit should be to provide assurances about a firm's compliance with the FCA's rules.

in particular transaction data.[12] Firms must review these methodologies when market circumstances require (and at least every quarter) to ensure that submissions are credible and robust.

3.6 Furthermore, as conflicts of interest played an important role in the attempts to manipulate LIBOR, we are proposing that firms maintain and operate effective organisational and administrative arrangements aimed at identifying and managing conflicts of interest. We would expect this to include the following:

- putting in place, implementing and maintaining a conflicts of interest policy relating to benchmark submission and identifying potential conflicts and ways to manage them;
- putting in place effective controls to manage conflicts of interest between the parts of the business responsible for the benchmark submission and those parts of the business who may use or have an interest in the benchmark rate; and
- restraining the ability of any person including senior management to exercise inappropriate influence over the daily submission.

3.7 The FCA's focus will be on the effective management of conflicts of interest which we acknowledge can be achieved in different ways. Firms will also need to address all third parties with which a firm interacts; including other firms or brokers.

3.8 Benchmark submitters will need to keep adequate records, such as data used to determine their submissions and an explanation of how they came to those figures. They will also need to keep reports on the sensitivity of the firm's own activities to the benchmark.

3.9 Benchmark submitters will also be active in the market and may become aware of attempts to manipulate the rate. As a consequence, we propose to require them to report any reasonable suspicions about the activities of other submitters.

3.10 Finally, we would expect firms to have regard to the code of practice for submissions that the LIBOR administrator produces as this will define best practice.

Q4: Do you think there are any other rules we should consider for the submitters?

Q5: For what period should submitters be mandated to keep records?

Q6: How frequently do you think the external audits should occur?

12 As noted in Chapter 2, we would expect the code of practice to be developed by the administrator to provide guidance on appropriate transaction data that should be used to determine submissions to LIBOR.

The Handbook: general provisions

3.11 Submission to LIBOR will be a new regulated activity in its own right. This will mean that, again, PRIN, GEN, SYSC and COND will automatically apply, as a consequence of entering our regulatory perimeter. These will define minimum standards, including for training and competence. As noted above, the parts of the Handbook which apply and may be relevant to the particular activity of benchmark submission will be set out in the proposed new guide for benchmark submitters and administrators in BENCH.

3.12 In the case of LIBOR, in all cases benchmark submitters will already be authorised by the FSA to conduct one or more regulated activities, so Handbook provisions will already apply to the relevant firms for their other regulated activities.

Fees

3.13 The costs of supervising submitting firms will be apportioned across all fee blocks in proportion to the resources each business area of the FCA diverts towards supervising the relevant firms. For example, many of them are likely to be located in fee block A1 (deposit takers – i.e. mainly banks and building societies), and others in fee block A10 (firms dealing in investments as principal).

Authorisation of LIBOR–submitting firms

3.14 Any firm that becomes eligible to submit information to LIBOR in the future will already hold at least one other authorisation. Applying for this new activity will therefore normally constitute a top–up permission (for a firm passporting into the UK) or a Variation of Permission (VoP) and cost £250.

3.15 The Treasury proposes that all existing LIBOR submitters be automatically deemed authorised for the new regulated activity from the start of the regime. So firms do not need to take action in relation to authorisation, but will have to comply with the new regime when it starts. The FCA will check this by conducting a thematic review of the LIBOR submission process within the first year of the new regime's existence, under which it will thoroughly assess how each submitter complies with the new rules. These firms will not have to pay for VoPs or top–up permissions as any costs will be marginal and borne by the FCA.

Approved persons regime – creation of a new controlled function

3.16 The Wheatley Review recommended that a new SIF–controlled function be created for the individual who manages the team responsible for submitting LIBOR, similar to the administrator SIF–function noted above. This would include both responsibility for the

process that ensures close control of LIBOR submissions and supervising employees involved in the submission process.

3.17 As explained in paragraph 2.19 the FCA will continue to operate an AP regime. We propose to reflect this recommendation by creating a new SIF required controlled function[13] CF40 (Benchmark submission function). The individual performing that role within the submitting firm will need to be approved.

3.18 We are aware that, for some firms, the submitting activity may take place outside the UK, both within and outside the EEA. We propose that, if a submitting firm has an establishment in the UK, the individual performing the new CF40 controlled function is required to apply wherever the submission activity takes place. This will require a change in our rules to ensure the new controlled function applies to both:

- overseas firms with an establishment in the UK; and
- EEA firms passporting[14] into the UK with a branch in the UK. For these firms the new regulated activity will be in addition to their passported activities.

3.19 We expect the individual performing the CF40 will be based in the UK but, where the submission activity takes place outside the UK, we accept it may be difficult for this individual to properly discharge their duties if they are based in a different country to the submitting activity. So we will take a pragmatic approach.

3.20 We propose to give the submitting firms six months from the start of the LIBOR regime to ensure individuals are approved for the new CF40. To ensure this happens, we will need to receive firms' applications for the individual approval within two weeks of the start of the LIBOR regime.

3.21 Separate criminal sanctions are expected to come in to force in parallel to the FCA's benchmark regime and will still apply during this six–month period – this transitional does not affect them.

Q7: Do you agree with our proposals to apply the new CF40 controlled function regardless of where the submitting activity takes place?

13 The Required controlled functions form part of the Significant Influence Functions as described in SUP 10.4.

14 An EEA firm that has exercised their rights under certain EU Single Market Directives to operate in other EEA countries without the need for direct authorisation.

4

Broader participation in LIBOR: a discussion

4.1 Previous chapters of this document have discussed specific proposals for rules that will come into force with the changes to secondary regulation taking effect in spring 2013. This chapter is different in that it takes the form of a Discussion Paper on ensuring the continuity of LIBOR and broadening participation in the rate. We are not consulting on proposals in this chapter; we just want to hear your thoughts.

4.2 The Wheatley Review concluded that global markets benefit from the continuing participation of major firms in the LIBOR panels and that market integrity could be undermined if submitting firms were to leave them. In addition the Review noted that larger panel sizes would benefit the accuracy and reliability of the benchmark. One way to achieve both those aims would be for the FCA to have powers to require firms to contribute to the rate on a permanent basis, and the changes that the government is proposing to amend the Bill to grant us such powers.[15]

4.3 This chapter outlines objective criteria which could be used to identify those firms we could expect to contribute to LIBOR. We encourage all those with a stake in LIBOR to read, and engage with, the ideas in this chapter and give us feedback on them.

4.4 In some cases, we think it would be beneficial to the rate if firms considered voluntarily applying to submit to the LIBOR benchmark. Existing submitters might also review whether to join additional panels for any of the five currencies that are to be retained (Stirling, Dollars, Euros, Yen and the Swiss Franc) in which they do not currently participate.[16]

15 See new section 137DA FSMA, as set out in the Financial Services Bill (http://services.parliament.uk/bills/2012–13/financialservices.html)

16 Currently, submissions are provided by 23 banks. A bank may nominate itself for membership of a given LIBOR currency panel. The role of each bank is then approved by LIBOR Panel Banks and Users Group (LPBAUG), based on a range of criteria (e.g. market activity, expertise or reputation). On 8 November 2012, the BBA published its consultation on the implementation of the Wheatley Review's recommendations. The proposals include the gradual phasing out of five of the ten current LIBOR currencies. The consultation can be found here: www.bbalibor.com/news-releases/bba-consults-on-implementing-wheatley-libor-reforms

CURRENT LIBOR SUBMITTERS	
BAML	Bank of Tokyo Mitsubishi
Barclays	BNP Paribas
CIBC	Citibank
CBA	Crédit Agricole
Credit Suisse	Deutsche Bank
HSBC	JPMorgan Chase
Lloyds TSB	Mizuho
Norinchunkin	Rabobank
RBS	Royal Bank of Canada
Santander	Scotiabank
Société Générale	Sumitomo Mitsui
UBS	

Objective criteria

4.5 The concept of broadening the LIBOR panels was endorsed through industry contributions to the Wheatley discussion paper[17], which noted that:

- Larger panels ensure that individual submissions have a limited impact on the published benchmark: thus wider panels discourage attempts to manipulate LIBOR.
- An increase in the number of contributors could increase the overall representativeness of the LIBOR benchmark.

4.6 However, respondents did caution that it would be important to ensure that any increased panel size would not simply increase the average credit risk or add contributors with limited activity in the relevant markets.

4.7 We agree with this assessment. Any enlarged panel must be credible, and chosen according to properly assessed, objective criteria. Only market participants can give an informed reflection of borrowing costs in the market, so LIBOR depends on their submissions for this credibility. Even then only certain market participants with sufficient, or appropriate, expertise will be able to submit a credible rate. It is equally true that participation needs to be wide enough for the rate to be truly representative. We therefore need to find the right criteria to identify a set of potential LIBOR submitters.

17 www.hm–treasury.gov.uk/d/condoc_wheatley_review.pdf

4.8 The Wheatley Review also noted the importance of the continuity of LIBOR and its definition. Therefore any attempt to broaden panel membership should reflect the reference to inter-bank offers in the current LIBOR definition.

4.9 We intend to work with industry to identify criteria for LIBOR submission and therefore the right firms to contribute to each panel. The current LIBOR submitters are a self-selecting sample. While their participation in each panel is judged against certain criteria, these criteria are only used to judge a bank on its own merits. They are not used to determine what might be a representative panel, capable of creating the most representative rate. So we do not propose to rely only on the existing criteria.

4.10 However, the BBA's guideline principles provide a key starting point in determining appropriate criteria for panel selection. They are:

- **scale of market activity;**
- **reputation; and**
- **perceived expertise in the currency concerned.**

4.11 These three principles are interlinked. Reputation is a subjective term and therefore very difficult to measure. So for our purposes, the first and third principles are enough to establish criteria for panel banks.

4.12 When choosing criteria and its indicators there is a trade off between granularity and the availability of consistent data across all jurisdictions. We are proposing that criteria should be high level, referenced to easily defined data that is publically available, from relatively stable sources and unlikely to have significant movements on a short–term basis. Furthermore, we think it needs to be easy to audit and reported in a similar way across all relevant jurisdictions. We intend this approach to expanding panels to be both simple and transparent, encouraging greater market confidence.

4.13 We propose to define market activity and perceived expertise using three broad categories. Each category would be measured by two indicators:

- **FOOTPRINT –** comprised of a measure of total assets and whether the firm is listed as a Globally Systemically Important Financial Institution (G–SIFI). We have chosen these indicators to measure the size, complexity and importance of a firm.
- **LENDING/BORROWING –** comprised of measures of total debt and syndicated loan book running in major currencies. We have chosen these high–level indicators as not all firms record more granular or homogeneous information. They reflect a firm's knowledge, and visibility of, the debt markets – encompassing the transactions relevant to the submission guidelines published by the Wheatley Review.
- **EXPERTISE –** firms' outstanding volume in Interest Rate Derivatives (IRDs) and whether they are prime or selected dealers in major government bond markets.

These measures provide a broad indicator of a firm's know–how and capacity in related markets.

The indicators

4.14 No single indicator will perfectly measure the categories, so for each of the three categories we have two measurable indicators. The table below outlines the six indicators, the relevant data source and the methodology we have used.

Category	Indicator	Data Source[18]	Assessment Methodology
FOOTPRINT	Total Assets (as of last quarterly report)	SNL Financial and quarterly reports	The score is calculated by dividing the individual firm amount by the aggregate amount summed across all firms in the sample
	G–SIFI Status (November 2012)[19]	Financial Stability Board	Where the firm is a GSIFI it scores 1, which is divided by the number of total institutions with this designation in the sample
LENDING/ BORROWING	Total Debt (as of last quarterly report)	SNL Financial and quarterly reports	The score is calculated by dividing the individual firm amount by the aggregate amount summed across all firms in the sample
	Syndicated Loans (Global Book RunningVolumes in YTD 2012)	Dealogic	
EXPERTISE	Notional Amount of Interest Rate Derivatives (as of last annual or quarterly report)	SNL Financial and quarterly reports	
	Market Maker status in UK Gilts, US Treasuries, Bunds and JGB (November 2012)	UK DMO, NY Fed, Deutsche Finanzagentur, Japanese MoF websites	Where the firm is a market maker it scores 1, which is divided by the number of total institutions with this designation in the sample

Assessment methodology

4.15 For each indicator we have taken a representative sample of 50–60 of the top firms, extending down to firms with low scores in those areas. These institutions have then been given a score out of 100 which demonstrates their relative position for each indicator. For example, if a firm had all the banking assets in the sample, then its score for 'total assets' would be 100. Where a firm holds 5% of the assets, its score is five. We have then

18 SNL Financial and Dealogic are providers of financial and market data related to corporate and financial firms. Some data gaps have been complemented with individual annual or quarterly reports.

19 Two firms with G-SIFI status are not included in the list as they do not meet the total assets threshold.

assumed that each of the six indicators is equally important, meaning a potential maximum score of 600.

4.16 Where the scores do not add up to 100, it is because the sample set for that indicator extends beyond the top 50 institutions shown.

4.17 Recognising the feedback received during the Wheatley Review, we agree that submitters should have relevant expertise. In our view this would suggest the top 30-40 institutions captured by our methodology should contribute to LIBOR. They could be viewed as a super-set of firms which meet our criteria. We are interested in firms' views on how many should submit.

4.18 Contribution to specific currency panels would depend on relevant currency expertise. This expertise could be defined by having possession of a banking or securities licence, or authorisation in a currency area and/or having a market making role in the relevant government bond markets.

4.19 Only those firms highlighted in italics in table 1 currently submit to LIBOR, but under this methodology the others could be expected to do so in the currencies for which they have expertise and operational presence. We have tried different models but each alternative approach has led to broadly similar results.

4.20 For reference, our intention is to target a minimum of 20 firms submitting to each currency panel. Currently, there is a range of 11-18 firms in each of the five currency panels that are proposed to be retained.

4.21 As we highlight above, these criteria serve the purpose of identifying which firms could be expected to contribute to LIBOR. But the resulting list of firms is not exclusive and where other banks felt that they have particular expertise in a relevant LIBOR currency, we would encourage them to engage with the LIBOR administrator.

DP1: Do you agree that the specific indicators and methodology we have identified adequately capture those institutions that will maintain the integrity of the LIBOR rates?

DP2: What are you views on how many institutions should form the 'super-set' that contributes to LIBOR?

DP3: Do you agree with our approach to determining currency expertise?

Table 1: indicative ranking of libor panel banks

RANK	CATEGORY	FOOT PRINT		LENDING/BORROWING		VISIBILITY		SCORE
	Indicator	Total Assets	GSIFI	Total Debt	Syndicated Loans	IRD Notional	Gov Bond Dealer	Total Score
	Maximum Score	**100**	**100**	**100**	**100**	**100**	**100**	**600**
1	*JPMorgan Chase*	3.67	3.57	4.50	12.16	7.17	4.94	36.00
2	*Bank of America Merrill Lynch*	3.45	3.57	4.59	10.62	7.58	4.94	34.74
3	*Deutsche Bank*	4.55	3.57	4.34	2.86	8.22	4.94	28.48
4	*Barclays*	3.93	3.57	5.31	3.23	7.32	4.94	28.30
5	*Citi*	3.03	3.57	4.25	6.82	5.28	4.94	27.89
6	*BNP Paribas*	4.13	3.57	3.76	2.57	6.54	4.94	25.51
7	*Royal Bank of Scotland*	3.79	3.57	2.16	2.56	7.92	4.94	24.95
8	*Mizuho*	3.14	3.57	3.99	6.98	1.45	3.70	22.83
9	*Credit Suisse*	1.81	3.57	2.88	2.28	5.97	4.94	21.45
10	*UBS*	2.45	3.57	2.88	1.11	5.11	4.94	20.06
11	Goldman Sachs	1.49	3.57	3.13	1.65	5.03	4.94	19.81
12	Morgan Stanley	1.21	3.57	2.30	2.18	5.55	4.94	19.76
13	*Bank of Tokyo – MUFJ*	4.02	3.57	3.03	4.29	1.62	1.23	17.78
14	*HSBC*	4.14	3.57	2.11	1.40	2.65	3.70	17.57
15	*Crédit Agricole*	3.95	3.57	2.55	1.06	2.29	2.47	15.89
16	*Société Générale*	2.48	3.57	1.91	0.87	2.65	3.70	15.19
17	*Sumitomo*	2.80	3.57	2.86	3.17	0.81	1.23	14.44
18	Wells Fargo	2.13	3.57	1.29	5.45	0.38	0.00	12.81
19	*Santander*	2.63	3.57	2.11	0.47	0.62	2.47	11.87
20	Groupe BPCE	2.39	3.57	3.30	0.37	1.05	0.00	10.68
21	Bank of China	3.28	3.57	3.06	0.64	NK	0.00	10.55
22	UniCredit	1.95	3.57	1.66	0.69	0.57	1.23	9.67
23	Nordea	1.51	3.57	1.93	0.27	1.01	1.23	9.52
24	ING	2.02	3.57	1.64	0.66	NK	1.23	9.13
25	*Royal Bank of Canada*	1.29	0.00	0.72	2.61	0.65	3.70	8.98
26	Nomura	0.72	0.00	1.91	0.24	1.04	4.94	8.85
27	BBVA	1.26	3.57	0.93	0.36	0.46	1.23	7.81
28	*Lloyds TSB*	2.49	0.00	2.76	0.49	0.49	1.23	7.46
29	*Bank of Nova Scotia*	0.97	0.00	0.46	1.37	0.27	3.70	6.77
30	*Rabobank*	1.54	0.00	2.31	0.50	0.51	1.23	6.10
31	Standard Chartered	0.97	3.57	0.50	0.64	0.33	0.00	6.01
32	Commerzbank	1.39	0.00	1.21	0.73	1.35	1.23	5.92
33	Toronto-Dominion Bank	1.20	0.00	0.45	1.60	0.37	1.23	4.85
34	Danske Bank	0.97	0.00	1.28	0.06	0.71	1.23	4.25
35	BMO	0.82	0.00	0.43	1.30	NK	1.23	3.78
36	Intesa Sanpaolo	1.34	0.00	1.54	0.15	0.58	0.00	3.61
37	ABN AMRO	0.85	0.00	1.01	0.20	0.12	1.23	3.41
38	Bayerische Landesbank	0.65	0.00	0.78	0.13	0.22	1.23	3.01
39	*Commonwealth Bank of Australia*	1.16	0.00	1.27	0.23	0.15	0.00	2.80
40	National Australia Bank	1.19	0.00	0.89	0.32	0.39	0.00	2.78
41	Westpac	1.05	0.00	1.25	0.22	0.15	0.00	2.67
42	*CIBC*	0.63	0.00	0.59	1.24	0.18	0.00	2.64
43	Crédit Mutuel	1.27	0.00	1.22	0.06	NK	0.00	2.55
44	Landesbank Baden-Württemberg	0.78	0.00	1.25	0.13	0.33	0.00	2.49
45	*Norinchunkin*	1.51	0.00	0.91	0.00	NK	0.00	2.42
46	Itaú Unibanco	0.71	0.00	1.31	0.13	NK	0.00	2.15
47	Banco Bradesco	0.63	0.00	1.07	0.00	NK	0.00	1.70
48	Australia and New Zealand Banking Group	0.94	0.00	0.00	0.47	0.24	0.00	1.64
49	Deutsche Zentral-Genossenschaftsbank	0.85	0.00	0.60	0.00	0.14	0.00	1.59
50	Banco Financiero y de Ahorros	0.66	0.00	0.74	0.00	0.15	0.00	1.54

NK = Not Known

NB: Under this approach two GSIFIs (State Street and Bank of New York Mellon) are not included in this list. Under different approaches they could form part of the top 50.

Next steps

4.22 It would be beneficial to the quality of the LIBOR benchmark, and therefore wider market integrity, if firms were to review their LIBOR participation against our suggested criteria and approach the administrator with a view to submitting to LIBOR Panels if they concluded that this was appropriate.

4.23 In the meantime we would also encourage firms to constructively engage with us on the questions in this chapter to help us refine the criteria.

> **DP4:** What do you think is the best process for expanding the LIBOR panels and encouraging firms to participate?

4.24 We want LIBOR to remain an industry–led process and we will proceed on that basis. However, we reserve the right to consider requiring firms to submit to LIBOR if we begin to have concerns that the continuity of LIBOR, or a particular currency panel, is at risk or the size of a particular currency panel is not sufficiently representative.

4.25 We would expect to consult the market again in the event that we wish to enact the compulsion powers. We may not consult, however, if we felt we had to use the power in an emergency to introduce rules requiring submissions to maintain the integrity of LIBOR.[20]

> **DP5:** Do you agree with our proposed approach for determining the circumstances in which the FCA would take up its powers to require submission to LIBOR?

20 Nothing here should be taken to prejudice our 'own initiative' variation of permission powers, which we could also use to preserve the integrity of the LIBOR process.

Annex 1

Cost benefit analysis

1. Submission to and administration of regulated benchmarks is becoming a regulated activity. But as LIBOR is the only regulated benchmark at the moment, this CBA focuses just on LIBOR. Therefore this CBA may need to be updated if and when the submission to and administration of other benchmarks become regulated activities as well.

2. The Wheatley Review identified three broad failings under the previous regime for submitting to and compiling LIBOR:

   - weaknesses in the LIBOR submission mechanism;
   - limitations in the existing governance and regulation framework; and
   - lack of regulatory oversight and accountability.

3. The recommendations made in the Wheatley Review and subsequently accepted in full by Her Majesty's Treasury (HMT) are designed to correct these failings. This consultation paper (CP) sets out the high–level rules and guidance that the FSA believes is necessary to implement the recommendations.

4. The selection of an administrator is beyond the scope of the FCA rules proposed in this CP and is therefore not addressed in this CBA. The FCA will have a strategic objective of promoting effective competition, including having regards to the ease with which new entrants can enter the market. The rules set out above outline the proposed requirements for benchmark administrators and do not create barriers to entry for firms wishing to carry on the activity of benchmark administration. However, we note LIBOR's dominant market position as the most widely used benchmark, and the possible risk that the LIBOR administrator may be able to charge excessive prices. Benchmarks such as LIBOR provide most benefit when a single benchmark is produced since all firms can use the same reference rate. In addition, multiple benchmarks may also increase the cost for submitting firms. Noting the risk that the LIBOR administrator may be able to change its price structure in the future, and in line with the aims of the Wheatley Review, we will work with the international authorities to consider the merits of other benchmarks and the role – if any – that the authorities should play in facilitating or encouraging transition to these other reference rates. We will monitor the

impact on competition of our new rules and the work of the international authorities to assess the development and usage of alternative benchmarks.

5. In our opinion, the impact of the rules set out in this CP is not significantly different on authorised persons which are mutual societies and other authorised persons.

6. Not all the recommendations will take effect at the same time. One of the recommendations is that the LIBOR administrator, once appointed, should develop a code of practice. This code will provide specific guidance concerning the submission process. Given that this will happen in the future and we do not know the precise content of the guidance that will be included in the code, it will not be possible to capture the potential costs and benefits of this guidance at this time. Instead, the costs and benefits discussed here will derive from our best estimates of the impact of the FSA high–level rules.

7. When proposing new rules, we are obliged under sections 155 and 157 of the Financial Services and Markets Act 2000 (FSMA) to publish a CBA, unless we believe the proposals will give rise to no costs or to an increase in costs of minimal significance. This Annex contains our CBA for establishing rules governing the submission and administration of LIBOR in the UK and refers to the rules contained in this consultation paper.

8. This CBA is structured as follows:

- our approach to CBA;
- overview of the population of firms affected;
- costs;
- benefits.

1. Our approach to CBA

1.1 The relevant baseline

9. The CBA has to make an appropriate comparison between the overall position if the proposed regulatory changes are applied and the overall position if they are not (i.e. the baseline). For the sake of this analysis, our relevant baseline is that we do not develop high–level rules that implement the Wheatley Recommendations and that firms and the current administrator continue to set LIBOR in the current manner.

10. The baseline in this case is that firms do not have any of the required systems or controls required to fulfil their obligations under the proposed rules. However, it is likely that some submitters are already complying with many of the proposals. The costs to submitting banks therefore will vary depending on the level of existing compliance. The estimates we provide below can be considered an upper–bound – the maximum cost for a

typical bank to comply with the proposed rules – assuming current non–compliance of the rules and non–existence of the systems and controls required.

2. Overview of the population of firms affected

11. The new LIBOR regime will impact all banks currently submitting to LIBOR and any other banks that may submit to LIBOR in the future. Currently, there are 23 banks submitting rates to one or more panels. It will also impact the new administrator that will be selected to oversee LIBOR submissions.

3. Costs

3.1 Direct costs to the FSA/FCA

12. The administration and submission to LIBOR will be made a regulated activity and the FSA will need to supervise the conduct of the firms and individuals involved in the process of setting the rate. The FSA is likely to require additional specialised supervisory resource. We also assume that, within the first year of the entering into force of the new regulatory regime, the FSA will conduct a thematic review of the systems and controls in place at panel banks to assert compliance with the rules and regulations associated with this regulated activity.

13. The total incremental costs to the FCA of the new LIBOR regulation amount to one-off costs of £0.2m and ongoing costs of £0.9m, including both salaries and overheads. We estimate the total incremental ongoing costs to the FCA of supervising the administrator to be £0.385m. The balance of £0.505m relates to additional LIBOR supervision for submitting banks and will be included in fee block A.

3.2 Costs to the administrator

14. The firm administrating LIBOR takes on responsibility for ensuring the integrity of the different LIBOR rates. First, the administrator has to maintain appropriate systems for the daily collection of quotes and the calculation of rates. Moreover, its responsibilities are to carry out daily checks of banks' submissions and identify errors and irregularities.

15. We estimate total one–off costs from the new rules to the new administrator of £1.6m, and ongoing costs of £0.9m to £1.0m. These are detailed in Table A1. We note that our cost estimates are meant to reflect the incremental costs that arise from the new LIBOR regime, not the total costs related to the new administrator's operations. However, in practice it is not always possible to separate the former from the latter in a consistent manner. Given the uncertainty about the organisational structure of the new administrator and how that compares

to the incumbent, we estimate the potential incremental costs based on our most conservative assumption, which is that the incremental costs will be equal to the costs detailed below.

Table A1: Costs to the administrator

Requirements	One–off costs (£)	Ongoing costs (£)
Systems and controls	1,571,500	565,500
Oversight Committee	–	254,800
Approval (controlled functions)	27,500	
Capital requirements	–	41,000–185,000[21]
Authorisation (administrator)	12,300	–
Total	**1,611,300**	**861,300–1,005,300**

3.2.1 Maintain adequate systems & controls

16. The new administrator would have to set up IT systems to process the information, perform the relevant calculations and interrogate the submissions of panel members. This would result in costs arising from both IT systems and IT development staff, as reflected in the table below.

Table A2: Systems and controls

Set–up costs, 3 months (£)	
IT staff	71,500
IT systems	1,500,000
Total costs	**1,571,500**

Source: Hudson Banking & Financial Services Salary Guide 2012

17. We assume that the activities of the administrator could be carried out adequately by a team of five, a senior manager, an IT support staff, as well as a compliance officer. We also assume that it will require some senior management time for review and escalation of cases of suspicious behaviour.

Table A3: Ongoing costs for the new LIBOR administrator

Annual running costs (£)	
Senior Manager	91,000
Manager	78,000
Associates	234,000
IT support staff	65,000
Compliance Officer	97,500
Total	**565,500**

Source: Hudson Banking & Financial Services Salary Guide 2012

21 Estimated as cost of equity

3.2.2 Oversight Committee

18. The benchmark administrator will need to appoint an oversight committee. The rules require that the committee needs to have at least two independent members and should otherwise have representatives from benchmark submitters and users of the benchmark. We therefore assume an oversight committee of 11, consisting of:

- a chairman;
- six non–executive directors;
- two independent non–executive directors; and
- two executive directors.

19. We further assume that only the Chairman and the non–executive directors lead to additional costs to the administrator arising from the regulatory regime as the other positions should already be in existence at any entity carrying out this activity.

Table A4: Oversight Committee for the new LIBOR administrator

Function	Number of individuals	Total annual cost (£)
Chairman	1	46,800
Non–executive directors[22]	8	208,000
Total		**254,800**

Source: Russell Reynolds Associates, Life in the Boardroom, 2011 Chairman and non–executive director Survey

3.2.3 Controlled functions

20. We assume that the LIBOR administrator will need to ensure that some individuals with significant influence over its business are FSA–approved persons. The following controlled functions will apply to the administrator: CF50 (Benchmark Administrator), CF1 (Director), CF2 (CEO) and CF3 (NED) and will be performed by the staff indicated on Tables A3 and A4. We estimate that applications for approval will result in costs of £2,500 per person for preparation of interviews and submission of documentation.[23] Assuming that the administrator will need 11 controlled functions, the estimated cost of those controlled functions for the administrator is £27,500.[24] In practice, the organisational structure of the future LIBOR administrator may however be different and require more or less controlled functions, and therefore the estimated incremental costs could vary as well.

22 Includes two independent non-executive directors.

23 Based on FSA Administrative Burdens, Real Assurance Risk Management, June 2006 and adjusted for inflation.

24 We assume the need of one CF50 (Libor administrator), one CF1 (director) or one CF2 (CEO) and nine CF3 (two independent directors, six non–executive non–independent directors, one chairman).

3.2.4 Capital requirements

21. We propose that the new LIBOR administrator will have to hold a maximum of nine months of yearly operating expenses as capital in order to provide enough time to ensure the orderly transition of its activities to another administrator, in case of transfer of cessation of activities.

22. Since it is envisaged that the current LIBOR administrator will be transferring its LIBOR administration functions to a new entity, not yet appointed, it is difficult to estimate what the operating expenses of this new entity could be. Assuming that the ongoing costs reflected on Tables A3 and A4 account for 66% to 75% of the total operating costs of the new administrator, we estimate its total annual operating costs of £1.1m to £1.2m. Assuming nine months of operating expenses, we get an estimate of equity needed of £0.8m to £0.9m. Under a reasonable range of cost of capital assumptions, the cost of equity for the new administrator may be in the range of £41,000 to £185,000.[25]

23. These regulatory capital requirements assume that the administrator would not hold any capital reserves in the absence of our regulation. In practice, the amount and cost of the regulatory capital requirements, in excess of the levels the administrator would use to operate its business, are expected to be significantly smaller.

3.2.5 Authorisation of the LIBOR administrator

24. The administrator of the LIBOR rate will be interim–authorised on the start of the FSA's regime. However, it will then need to seek and receive full authorisation. Based on a review conducted by Real Assurance Risk Management in 2006 and adjusting for inflation, we estimate that a full–scale application of authorisation for the administrator of LIBOR would cost £12,300.

3.2.6 Create, adapt and maintain a code of practice for LIBOR submitters

25. The administrator will have to create, adapt and maintain a code of practice for LIBOR submitters. We assume that this activity will be carried out by the regular staff members and does not impose any additional costs on the administrator.

25 We assume costs of capital between 5% and 20%.

3.3 Compliance costs for a submitting firm

Table A5: Compliance costs for a submitting firm

Policy	One–off costs (£)	Ongoing costs (£)
IT systems	1,000,000–1,500,000	118,300–500,000
Staff	630,000–1,000,000	
External audits	–	45,000
Controlled functions application	2,500	–
Total	1,632,500 – 2,502,500	163,300 – 545,000

3.3.1 Systems and controls to oversee the LIBOR process

26. There will be one–off costs for implementing adequate systems and controls arising from this regulation as well as ongoing expenses for maintaining them. In terms of the one–off costs, we assume that this might be a large project undertaken by a team of business experts, compliance staff, lawyers, IT staff and, in some cases, external consultants. Submitting firms would also have to invest in the development of IT systems to capture and store transactions relevant for their daily submissions (record–keeping), assess daily submissions against underlying data, and flag up outliers to business and control staff. Training for benchmark submitters and traders is also likely to be necessary.[26] The identification, extraction and storage of the required trade transaction records and daily position reports is likely to contribute the bulk of the efforts involved in setting up these systems. We assume that most of these changes can be implemented in a relatively short period of time. However, we acknowledge that long–term solutions may require a project team to be involved for up to between six and eight months.

27. IT costs are estimated to be between £1m and £1.5m.[27] Staff expenses might vary by the level of current compliance and the number of currency panels a bank is submitting to. We expect these costs to be in the range of £0.6m to £1m. These estimates are based on reasonable assumptions on the number and qualification of staff members required to carry out the responsibilities listed in the previous paragraph.[28]

28. Running costs will reflect increased compliance and internal audit resources. Firms may also have to increase resources in other business units to ensure adequate record–keeping and analysis of underlying data supporting LIBOR rates submissions. This may translate

26 We estimate costs of training as the costs arising from one dedicated training staff member and as the opportunity–costs of time from training 50 individuals for one day each.

27 Based on FSA internal estimates and sense checked by internal IT services and industry experts.

28 Costs are based on FSA internal estimates and industry estimates. The lower bound is estimated assuming a 6 month implementation period. The upper bound is an industry estimate adjusted to reflect the focus on LIBOR exclusively. Staff salaries have been taken from the FSA compliance cost survey 2006, Hudson Legal Salary Guide 2011 and Hudson Banking & Financial Services 2012 salary guide. All figures have been adjusted for inflation when appropriate.

into additional IT infrastructure to ensure automatic controls are effective. We also expect the proposed regulatory regime to result in an increase in senior management time to oversee the effectiveness of the controls in place. We estimate these costs to be between £0.1m and £0.5m, as mentioned above, depending on current compliance levels and the number of currency panels a firm submits to.[29]

3.3.2 External audits

29. The Wheatley Review recommended requiring firms to have regular external audits of their systems and controls. Precise estimates for external audit costs are difficult to obtain as exact requirements are still being decided. The Institute of Chartered Accountants in England and Wales (ICAEW) has set up a working group tasked to provide guidance on conducting assurance work on benchmark interest rates and indices. The results of this work will be published in 2013. The costs of external audit in the table above are therefore based solely on FSA internal estimates, and the actual costs may differ from our estimates.[30]

3.3.3 Controlled functions for submitting firms

30. A new control function, CF40 for the manager of the LIBOR submitting team will be created. We estimate a cost of £2,500 for preparation of interviews and submission of documentation.[31]

3.3.4 Managing conflict of interests

31. Firms submitting to LIBOR will need to identify potential and actual conflicts of interest within the organisation and with any third party, and put effective controls in place to address these conflicts. Such policies are expected to include, among other things, compliance surveillance and monitoring systems, training for benchmark submitters, supervisors and relevant traders, firewalls, storage of communications between rate submitters and relevant rate traders, etc. The effectiveness of the implemented measures will have to be evaluated through internal and external audits. We tried to reflect the estimated costs of these controls in the staff and IT systems and controls mentioned in Table A5. In practice, the incremental costs for submitting firms arising from this regulation will depend on firms' current compliance with the proposed rules. Accordingly, they will vary by firm.

29 These estimates are based on FSA internal estimates and industry experts. The lower bound is an FSA internal estimate comprising internal audit functions, compliance functions, LIBOR submission and IT maintenance. The upper bound is derived from industry estimates. Staff salaries have been taken from the FSA compliance cost survey 2006, Hudson Legal Salary Guide 2011 and Hudson Banking & Financial Services 2012 salary guide. All figures have been adjusted for inflation when appropriate.

30 FSA Compliance Cost Survey 2006, wage inflation since 2005: 23%.

31 Based on FSA Administrative Burdens, Real Assurance Risk Management, June 2006 and adjusted for inflation.

4. Benefits

32. The main benefits derived from the proposals are to maintain market stability and confidence and improve the accuracy of LIBOR as a benchmark that is reflective of banks unsecured short–term funding costs. Such benefits are difficult to quantify, however, given the global importance of LIBOR we believe the benefits outweigh the costs.

4.1 Ensuring continuity of the LIBOR rate for existing contracts

33. The value of contracts linked to LIBOR is estimated to be $300tn, which gives an indication of the global and social importance of this rate. Our proposals, by implementing the recommendations of the Wheatley Review, seek to ensure the continuity of the LIBOR rate for existing contracts and provide certainty in the future for new contracts that reference LIBOR. Such continuity provides benefits for all firms that reference LIBOR in their contracts, in the UK and overseas.

4.2 Effective management of conflicts of interest

34. Failure to manage conflicts of interest within a firm, where LIBOR submitters were influenced by other parts of the firm in order to deliver profit, was a key driver of the current problems with LIBOR. Our proposals require firms to have an appropriate conflict of interest policy and effective systems and controls to manage them. This will reduce the ability of LIBOR submitters to be influenced by other parts of the firm or other firms, and therefore improve the accuracy of LIBOR submissions and the overall LIBOR rate as a measure of short–term unsecured bank funding costs.

4.3 Increasing accountability and oversight of submitters

35. Our proposals include that submitting firms should have:

- Adequate oversight by senior management and compliance functions, including by approved persons.
- Internal and external audits.
- Clear, transparent and documented methodology for choosing and submitting LIBOR rates, as well as keeping adequate records of the rates submitted and supporting documentation.

36. These proposals should help to link LIBOR more closely with the real unsecured short–term borrowing costs of banks, by closely linking them with a stated methodology and justification; and, reduce the ability of LIBOR submitters to manipulate the rate.

37. The approved persons regime makes individuals personally responsible for ensuring that key functions of the regulated businesses are carried on in an appropriate manner. This helps ensure that senior management within firms focus on compliance and maintaining

appropriate systems and controls. It is also an important part of the arrangements that will support the FCA's powers to take action against individuals. Regulatory compliance is likely to be enhanced where individuals are potentially subject to personal sanctions.

38. Proactive supervision of the submission and administration process will increase the likelihood that the FCA can react earlier to problems. Dealing with problems at an earlier stage will help to prevent and reduce the detriment. Making the activity of submitting to LIBOR a regulated activity brings it within our Rules, reducing the risk of unfair practices and increasing market confidence in LIBOR.

4.4 Regulatory oversight of the administrator

39. By making the act of administrating LIBOR a regulated act, the rules improve the regulatory oversight of LIBOR and how it is set. This provides benefits over the current system where the rate is administrated by the British Bankers' Association (BBA), which itself is composed of contributing banks. Removing this potential conflict of interest and providing regulatory oversight will provide the administrator with incentives to detect and act on potential issues in the submission of LIBOR, and make the administrator fully accountable for the process. By applying the approved persons regime to the administrator, we further increase the oversight and incentives for the administrator to oversee a fair and functioning LIBOR rate. Making the administrator a regulated entity also brings it within our Rules, reducing the risk of unfair practices and increasing market confidence in LIBOR.

Annex 2

Compatibility statement

Compatibility with the FSA's General Duties

1. As explained above, the government is legislating for the Financial Conduct Authority (FCA) to regulate benchmark submission and administration. So we comment here on the compatibility of our proposals with the duties and objectives of the FCA we currently expect to be in the Bill.

FCA general duties and principles of good regulation

2. According to Section 138I(2)(d) of FSMA, as proposed to be amended by the Bill, a consultation by the FCA should include an explanation of how the proposed rules are compatible with its duties.

3. In discharging its general functions, the FCA must, so far as is reasonably possible, act in a way which (a) is compatible with its strategic objective, and (b) advances one or more of its operational objectives (section 1B(1) FSMA, as proposed to be amended by the Bill).

4. The proposed new regime for regulating benchmark submission and administration intends to ensure the integrity of vital financial benchmarks – such as LIBOR – which are used as a reference rate for a large number of contracts. It is important for the maintenance of the integrity of the UK financial system and for the protection of consumers that such benchmarks are determined in a fair and transparent way and are free of manipulation. As a consequence, we believe that the proposals in this CP further the consumer protection and integrity objectives.

5. We have considered our duty to promote competition set out in section 1B(4) of FSMA, as proposed to be amended by the Bill, particularly with regard to the dominant market position that the LIBOR administrator might hold. Section 1B(4) requires that the FCA must – so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective – carry out its general functions in a way that promotes effective competition in the interests of consumers. We believe that the nature of a benchmark is such that it may be difficult for more than one person to administer the

arrangements for the benchmark. We do not believe there is currently any scope for FCA rules to promote competition in the administration of LIBOR, and trying to do so would not be compatible with our integrity and consumer protection objectives because of the additional uncertainty this would bring to the setting of the rate. The FCA will actively participate in upcoming international work to explore the use of benchmarks and the identification of appropriate alternatives.

6. We believe that all proposed changes covered by this CP are compatible with the principles of good regulation as proposed in the Bill. In particular, we have endeavoured to minimise additional costs while preserving benefits and believe that an appropriate balance has been struck between the need to ensure the FCA's regulatory objectives are fulfilled and the need to keep regulatory burdens to a minimum; and to provide transparency in how the FCA proposes to exercise its functions as covered by this CP.

Annex 3

List of questions

Q1: Do you agree that our suggested capital requirements for the administrator will give enough time for an orderly transition to a new administrator?

Q2: Are there any other rules we should consider for the administrator?

Q3: Do you think there are any other rules we should consider for the submitters?

Q4: For what period should submitters be mandated to keep records?

Q5: How frequently do you think the external audits should occur?

Q6: Do you agree with our proposals to apply the new CF40 controlled function regardless of where the submitting activity takes place?

DP1: Do you agree that the specific indicators and methodology we have identified adequately capture those institutions that will maintain the integrity of the LIBOR rates?

DP2: What are you views on how many institutions should form the 'super-set' that contributes to LIBOR?

DP3: Do you agree with our approach to determining currency expertise?

DP4: What do you think is the best process for expanding the LIBOR panels and encouraging firms to participate?

DP5: Do you agree with our proposed approach for determining the circumstances in which the FCA would take up its powers to require submission to LIBOR?

Annex 4

Ten point plan to overhaul LIBOR (extract from the Wheatley Report)

Regulation of LIBOR

1. The authorities should introduce statutory regulation of administration of, and submission to, LIBOR, including an Approved Persons regime, to provide the assurance of credible independent supervision, oversight and enforcement, both civil and criminal.

Institutional reform

2. The BBA should transfer responsibility for LIBOR to a new administrator, who will be responsible for compiling and distributing the rate, as well as providing credible internal governance and oversight. This should be achieved through a tender process to be run by an independent committee convened by the regulatory authorities.

3. The new administrator should fulfil specific obligations as part of its governance and oversight of the rate, having due regard to transparency, and fair and non–discriminatory access to the benchmark. These obligations will include:

    a) surveillance and scrutiny of submissions;

    b) publication of a statistical digest of rate submissions; and

    c) periodic reviews addressing the issue of whether LIBOR continues to meet market needs effectively and credibly.

The rules governing LIBOR

4. Submitting banks should immediately look to comply with the submission guidelines presented in this report, making explicit and clear use of transaction data to corroborate their submissions.

5. The new administrator should, as a priority, introduce a code of conduct for submitters that should clearly define:

- guidelines for the explicit use of transaction data to determine submissions;
- systems and controls for submitting firms;
- transaction record keeping responsibilities for submitting banks; and
- a requirement for regular external audit of submitting firms.

Immediate improvements to LIBOR

6. The BBA and should cease the compilation and publication of LIBOR for those currencies and tenors for which there is insufficient trade data to corroborate submissions, immediately engaging in consultation with users and submitters to plan and implement a phased removal of these rates.

7. The BBA should publish individual LIBOR submissions after three months to reduce the potential for submitters to attempt manipulation, and to reduce any potential interpretation of submissions as a signal of creditworthiness.

8. Banks, including those not currently submitting to LIBOR, should be encouraged to participate as widely as possible in the LIBOR compilation process, including, if necessary, through new powers of regulatory compulsion.

9. Market participants using LIBOR should be encouraged to consider and evaluate their use of LIBOR, including the:

a) a consideration of whether LIBOR is the most appropriate benchmark for the transactions that they undertake; and

b) whether standard contracts contain adequate contingency provisions covering the event of LIBOR not being produced.

International co–ordination

10. The UK authorities should work closely with the European and international community and contribute fully to the debate on the long–term future of LIBOR and other global benchmarks, establishing and promoting clear principles for effective global benchmarks.

Appendix 1

Draft Handbook text

BENCHMARKS INSTRUMENT 2013

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of its powers under the following provisions of the Financial Services and Markets Act 2000 as amended by the Financial Services Act 2013 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 137DA (Rules requiring participation in benchmark);
(3) section 137R (General supplementary powers); and
(4) section 139A (Power of the FCA to give guidance).

B. The rule-making powers referred to above are specified for the purpose of section 138G (2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on [*date*].

Amendments to the Handbook

D. The modules of the FSA'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
Fit and Proper test for Approved Persons (FIT)	Annex B
Fees manual (FEES)	Annex C
Market Conduct sourcebook (MAR)	Annex D
Supervision manual (SUP)	Annex E

General Guidance on benchmark submission and administration

E. General guidance on the parts of the Handbook that apply to benchmark submitters and to benchmark administrators when they carry out the regulated activities of providing information in relation to a regulated benchmark and administering a regulated benchmark is made in the form of Annex F to this instrument. This guidance is a Handbook Guide and does not form part of the Handbook.

F. The Perimeter Guidance manual (PERG) is amended in accordance with Annex G to this instrument. The general guidance in PERG does not form part of the Handbook.

Citation

G. This instrument may be cited as the 'Benchmarks Instrument 2013'.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions and amendments in the appropriate alphabetical position. In this Annex, underlining indicates new text and striking through indicates deleted text.

administering a regulated benchmark	The *regulated activity*, specified in article 63O (1) (b) of the *Regulated Activities Order*, which means: (1) administering the arrangements for determining a regulated benchmark, or (2) collecting, analysing or processing information or expressions of opinion for the purpose of the determination of a regulated benchmark, or (3) determining a regulated benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.
benchmark administrator	A person carrying out the *regulated activity* of *administering a regulated benchmark.*
benchmark administration function	*FCA-controlled function* CF50 in the *table of FCA-controlled functions* which is the function of acting in the capacity of a *person* who is responsible for oversight of a *firm's* compliance with *MAR* 8.3.3R (benchmark administration manager).
benchmark submitter	A person carrying out the *regulated activity* of *providing information in relation to a regulated benchmark.*
benchmark submission	The information or expression of opinion provided to a *benchmark administrator* for the purpose of determining a *regulated benchmark*
benchmark submission function	*FCA-controlled function* CF40 in the *table of FCA-controlled functions* which is the function of acting in the capacity of a *person* who is responsible for oversight of a *firm's* compliance with *MAR* 8.2.3R (benchmark manager).
conflicts of interest policy	~~the policy established and maintained in accordance with SYSC 10.1.10 R.~~ (1) the policy established and maintained in accordance with SYSC 10.1.10 R; and (2) (*MAR* 8) the policy established and maintained in accordance with *MAR* 8.2.5 R which identifies circumstances that constitute or may give rise to a conflict of interest arising from *benchmark submissions* and the process of gathering information in order to make *benchmark*

	submissions and sets out the process to manage such conflicts.
providing information in relation to a regulated benchmark	The *regulated activity*, specified in article 63O (1) (a) of the *Regulated Activities Order*, which in summary means making *benchmark submissions.*
regulated benchmark	a benchmark as defined in article 63O (2)(a) of, and specified in Schedule 5 to, the *Regulated Activities Order*

Annex B

Amendments to the Fit and Proper test for Approved Persons (FIT)

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

1.2 Introduction

…

1.2.4A Under Article 5(1)(d) of the *MiFID Implementing Directive* and Article 31 and 32 of *MiFID*, the requirement to employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them is reserved to the *firm's Home State*. Therefore, in assessing the fitness and propriety of a *person* to perform a *controlled function* solely in relation to the *MiFID business* of an *incoming EEA firm*, the *appropriate regulator* will not have regard to that *person's* competence and capability. Where the *controlled function* relates to matters outside the scope of *MiFID*, for example *money laundering* responsibilities (see CF11) or activities related to a *regulated benchmark* (see CF 40 and CF 50), or to business outside the scope of the *MiFID* business of an *incoming EEA firm*, for example *insurance mediation activities* in relation to *life policies*, the *FSA* will have regard to a *candidate's* competence and capability as well as his honesty, integrity, reputation and financial soundness.

Annex C

Amendments to the Fees manual (FEES)

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

3.2 **Obligation to pay fees**

…

3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) Fee payable	Due Date
(a) Any applicant for *Part IV permission* (including an *incoming firm* applying for *top-up permission*) whose fee is not payable pursuant to sub- paragraph (ga) of this table	…	…
…		
(g) Any applicant for recognition as a *UK recognised body*: (i) under section 287 or section 288 of the *Act*; or (ii) under regulation 2(1) of the *RAP regulations*	…	…
(ga) Any applicant for: (i) a *Part 4A permission* to carry out the *regulated activity* of *administering a regulated benchmark*; or (ii) varying its *Part 4A permission* to carry out the *regulated activity* of *administering a regulated benchmark*	FEES 3 Annex 3 R, part 1	On or before the date the application is made
…	…	…
(p) A *firm* applying for a variation of its *Part 4A permission* whose fee is not payable pursuant to sub-paragraph (ga) of this table	…	

…

3 Annex 3 R Application fees payable in connection with Recognised Investment Exchanges, Recognised Clearing Houses, ~~and~~ Recognised Auction Platforms and Benchmark

Administrators

Description of Applicant	Amount payable	Due date
Part 1 (UK recognised bodies)		
…		
Applicant for recognition as an *RAP* (payable in addition to any other application fee due under this part)	…	…
Any applicant for: (i) a *Part 4A permission* to carry out the *regulated activity* of *administering a regulated benchmark*; or (ii) varying its *Part 4A permission* to carry out the *regulated activity* of *administering a regulated benchmark*	£25,000	Date the application is made
…		

4 Annex 1 R Activity groups, tariff bases and valuation dates applicable

Part 1 This table shows how the *regulated activities* for which a *firm* has *permission* are linked 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. *MTF* operators	…
B. Benchmark administrators	It is a *benchmark administrator*

Part 2 This table indicates the tariff base for each fee-block. The tariff base is the means by which we measure the amount of business' conducted by a *firm*. Note that where the tariff base is the number of *approved persons* it may be that a particular *firm* has *permission* for relevant activities as described in Part 1 but the type of activity that the *firm* undertakes is not one requiring a *person* to be approved to undertake a relevant *customer function* (for example *firms* only giving *basic advice on stakeholder products*). In these circumstances, the *firm* will be required to pay a minimum fee only (see *FEES* 4 Annex 2R Part 1).

Activity Group	Tariff-base
…	
B. *MTF* operators	…
B. Benchmark administrators	Not applicable

Part 3 This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data by applying the tariff bases set out in Part 2 with reference to the valuation dates shown in this table.

Activity Group	Valuation date
…	
B. *MTF* operators	…
B. *Benchmark administrators*	Not applicable

4 Annex 2 R **Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for the period from 1 April 2012 to 31 March 2013**

Part 1 This table shows the tariff rates applicable to each fee block

…		
Activity Group	Fee payable	
…		
B. Service companies	…	…
	…	…
B. *Benchmark administrators*	£385,000	
B. *MTF* operators	…	

…

Part 2 Amendments to the Fees Manual - Transitional Provisions and Schedules (FEES transchedule)

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

FEES TP1 Transitional provisions

FEES
TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: Dates in force	(6) Handbook provision: Coming into force
…					
7.	FEES 7	R	…		
8.	FEES 3.2.7 R (ga)	R	The due date for a fee payable pursuant to sub-paragraph (ga) is on the date the *FCA* notifies the applicant of his *authorisation* pursuant to section 55V (5) of the *Act.*	[*date*]	[*date*]

Annex D

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, the entire text is new and is not underlined.

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*.

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 regulated benchmark* or *administering a regulated benchmark.*

8.2 Requirements for benchmark submitters

Organisational and governance arrangements

8.2.1 R A *benchmark submitter* must establish and maintain adequate and effective organisational and governance arrangements for the process of making *benchmark submissions*.

8.2.2 G These arrangements should include:

(1) appropriate oversight of the submission process by the *benchmark submitter's senior personnel*;

(2) appropriate oversight of the submission process by the compliance function of the *firm* to ensure compliance with the *benchmark submitter*'s obligations under this chapter; and

(3) periodic internal audit reviews.

8.2.3 R A *benchmark submitter* who maintains an establishment in the *United Kingdom* must:

(1) appoint a benchmark manager with responsibility for the oversight of its compliance with this chapter; and

(2) ensure that its benchmark manager has a level of authority and access to resources and information sufficient to enable him to carry out that responsibility.

8.2.4 G The requirements in *MAR* 8.2.3 R apply regardless of the place from which *benchmark submissions* are made. The *FCA* expects that a benchmark manager will be based in the *United Kingdom*.

8.2.5 R A *benchmark submitter* must:

(1) ensure that its *benchmark submissions* are determined using an effective methodology to establish the *benchmark submission* on the basis of objective criteria and relevant information; and

(2) review this methodology as and when market circumstances require but at least every quarter to ensure that its *benchmark submissions* are credible and robust.

Conflict management

8.2.6 R A *benchmark submitter* must maintain and operate effective organisational and administrative arrangements to enable it to identify and manage any conflicts of interest that may arise from the process of making *benchmark submissions*.

8.2.7 G In order to identify and manage conflicts of interest as set out in *MAR* 8.2.6 R a *benchmark submitter* should:

(1) establish, implement and maintain a conflicts of interest policy which

(a) identifies the circumstances that constitute or may give rise to a conflict of interest arising from its *benchmark submissions* or the process of gathering information in order to make *benchmark submissions*; and

(b) sets out the approach to managing such conflicts*;*

(2) establish effective controls to manage conflicts of interest between the parts of the business responsible for the *benchmark submission* and those parts of the business who may use or have an interest in the benchmark rate; and

(3) establish effective measures to prevent or limit any person from exercising inappropriate influence over the *benchmark submission*.

Notification of suspicions of manipulation

8.2.8 R A *benchmark submitter* who suspects that any person:

(1) is manipulating or has manipulated a *regulated benchmark*;

(2) is attempting to or has attempted to manipulate a *regulated benchmark*; or

(3) is colluding in or has colluded in the manipulation or attempted manipulation of a *regulated benchmark*;

must notify the *FCA* without delay.

Record keeping

8.2.9 R A *benchmark submitter* must:

(1) keep for at least five years:

(a) records of its *benchmark submissions* as well as all information used to enable it to make a *benchmark submission*;

(b) reports on the key sensitivities the *benchmark submitter* may have regarding the *regulated benchmark* it is submitting to, including (but not limited to) the *benchmark submitter's* exposure to instruments which may be affected by changes in the *regulated benchmark*;

(2) provide to the relevant *benchmark administrator* all information used to enable it to make a *benchmark submission* on a daily basis; and

(3) provide to the relevant *benchmark administrator* on a quarterly basis aggregate information which will allow the *benchmark administrator* to produce statistics relevant to the *regulated benchmark* as required by *MAR* 8.3.7.R.

8.2.10 G The information provided to the *benchmark administrator* in accordance with *MAR* 8.2.9 R (2) should include:

(1) an explanation of the rationale used; and

(2) if applicable, the expert judgement made to establish the *benchmark submission*.

Auditor's report

8.2.11 R A *benchmark submitter* must appoint an independent auditor to report to the *FCA* on the *benchmark submitter's* compliance with the requirements of this chapter on a yearly basis.

MAR 8.3 Requirements for benchmark administrators

8.3.1 R A *benchmark administrator* must establish and maintain effective organisational and governance arrangements to enable it to carry out the activity of *administering a regulated benchmark*.

8.3.2 R In discharging its duties, the *benchmark administrator* must have regard to the importance of maintaining integrity of the market and the continuity of the *regulated benchmark* including the need for contractual certainty for contracts which reference the *regulated benchmark*.

8.3.3 R A *benchmark administrator* must:

(1) appoint a benchmark administration manager with responsibility for oversight of its compliance with this chapter; and

(2) ensure that its benchmark administration manager has a level of authority and access to resources and information sufficient to enable him to carry out that responsibility.

8.3.4 R A *benchmark administrator* must:

(1) have effective arrangements and procedures that allow the regular monitoring, validation and surveillance of *benchmark submissions*:

(2) monitor the *benchmark submissions* in order to identify breaches of its practice standards (set out in *MAR* 8.3.7 R (1)) and conduct that may involve manipulation or attempted manipulation of the *regulated benchmark* it administers; and

(3) notify the *FCA* and provide all relevant information where it suspects that, in relation to the *regulated benchmark* it administers, there has been:

(a) a material breach of the *benchmark administrator's* practice standards (set out in *MAR* 8.3.7 R (1));

(b) conduct that may involve manipulation or attempted manipulation of the *regulated benchmark* it administers; or

(c) collusion to manipulate or to attempt to manipulate the *regulated benchmark* it administers.

Oversight committee

8.3.5 R A *benchmark administrator* must establish an oversight committee composed of members representing *benchmark submitters*, market infrastructure providers, users of the *regulated benchmark* and at least two independent members.

8.3.6 G The oversight committee should be responsible for:

(1) considering matters of definition and scope of the *regulated benchmark*;

(2) exercising collective scrutiny of *benchmark submissions* if and when required; and

(3) notifying the *FCA* of *benchmark submitters* that fail on a recurring basis to follow the practice standards (as set out in *MAR* 8.3.7 R (1)) for the *regulated benchmark*.

8.3.7 R The *benchmark administrator* through its oversight committee must:

(1) develop practice standards in a published code which set out the responsibilities for *benchmark submitters*, the *benchmark administrator*, and its oversight committee in relation to the relevant *regulated benchmark;*

(2) undertake regular periodic reviews of:

(a) the practice standards mentioned in *MAR* 8.3.7 R (1);

(b) the setting and definition of the *regulated benchmark* it administers;

(c) the composition of *benchmark submitter* panels; and

(d) the process of making relevant *benchmark submissions;* and

(3) before making any changes as a result of such review:

(a) notify the *FCA*;

(b) after doing so, publish a draft of the proposed changes and a notice that representations about the proposed changes may be made to the *benchmark administrator* within a specified time; and

(c) have regard to any such representations.

Review of the benchmark and publication of statistics

8.3.8 R The *benchmark administrator* must provide to the *FCA*, on a daily basis, all *benchmark submissions* it has received relating to the *regulated benchmark* it administers.

8.3.9 R A *benchmark administrator* must publish quarterly aggregate statistics outlining the activity in the underlying market relevant to the *regulated benchmark*.

Adequate financial resources

8.3.10 R A *benchmark administrator* whose *Part 4A permission* includes only the *regulated activity* of *administering a regulated benchmark* must:

(1) be able to meet its liabilities as they fall due; and

(2) maintain, at all times, at least sufficient financial resources to be able to cover the operating costs of administering the *regulated benchmark* for a period of six months.

8.3.11 G *MAR* 8.3.10 R sets out the minimum amount of financial resources a *benchmark administrator* must hold in order to carry out *administering a regulated benchmark.* However, the *FCA* expects *benchmark administrators* to normally hold sufficient financial resources to cover the operating costs of

administering the *regulated benchmark* for a period of nine months.

8.3.12 G The *FCA* may use its powers under section 55L of the *Act* to impose on a *benchmark administrator* a requirement to hold additional financial resources to *MAR* 8.3.10 R if the *FCA* considers it desirable to meet any of its *statutory objectives*.

Annex E

Amendments to the Supervision manual (SUP)

The text against which the changes are shown is taken from the draft version of SUP 10A as set out in CP12/26 *Regulatory reform: the PRA and FCA regimes for Approved Persons* (October 2012).

In Part 1 of this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Amendments to the new chapter 10A of the Supervision Manual

10A.1 Application

…

Overseas firms: UK services

10A.1.5 R (1) This chapter does not apply to an *overseas firm* in relation to *regulated activities* which are carried on in the *United Kingdom* other than from an establishment maintained by it or its *appointed representative* in the *United Kingdom*.

(2) However, *SUP* 10A.1.5R (1) does not apply to the *benchmark submission function*. *SUP* 10A.1.23R (Territorial scope of SUP 10A in relation to benchmark submission) applies instead.

Overseas firms: UK establishments

…

10A.1.6A G *SUP* 10A.1.23R (Territorial scope of SUP 10A in relation to benchmark submission) says that the *benchmark submission function* applies even if the *regulated activity* of *providing information in relation to a regulated benchmark* (or any other *regulated activity*) is not carried on from the *UK* establishment.

…

10A.1.16 G *SUP* 10A.1.23R (Territorial scope of SUP 10A in relation to benchmark submission) says that the *benchmark submission function* applies even if the *regulated activity* of *providing information in relation to a regulated benchmark* is not carried on from the *UK branch*.

…

Territorial scope of SUP 10A in relation to benchmark submission

10A.1.22A R The application of *SUP* 10A to the *benchmark submission function* is as set out in *MAR* 8.2.3R.

…

10A.1.24 G *MAR* 8.2.3R says that the obligation on a *benchmark submitter* to appoint a 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 regulated benchmark* or the *benchmark submission function* are carried on from that establishment.

…

10A.4 Specification of functions

…

10A.4.5 R FCA-controlled functions

Part 1 (FCA-controlled functions for FCA-authorised persons and appointed representatives)		
Type	**CF**	**Description of FCA-controlled function**
…		
*FCA-required functions**		…
…		
	11	*Money laundering reporting function*
	40	*Benchmark submission function*
	50	*Benchmark administration function*
…		

Part 2 (FCA-controlled functions for PRA-authorised persons)		
Type	**CF**	**Description of FCA-controlled function**

…		
*FCA-required functions**		…
	11	*Money laundering reporting function*
	40	*Benchmark submission function*
	50	*Benchmark administration function*
…		

10A.7 FCA-required functions

…

Benchmark submission function (CF40)

10A.7.11 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).

Benchmark administration function (CF50)

10A.7.12 R The *benchmark administration function* is the function of acting in the capacity of a *person* to whom is allocated the function set out in *MAR* 8.3.3R(1) (Requirements for benchmark administrators).

…

In Part 2 of this Annex, the entire text is new and is not underlined.

Part 2 Amendments to SUP TP (Transitional provisions)

TP 2 Transitional provisions relating to SUP 10A

TP 2.1 Transitional provisions relating to LIBOR submissions

2.1.1 R *SUP* TP 2.1 applies to a *firm* with a *permission* under article 8 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (Automatic *Part 4A permission* in relation to *providing information in relation to a regulated benchmark*).

2.1.2 R The *benchmark submission function* does not apply during the first transitional period.

2.1.3 R The first transitional period is the period of two weeks beginning on [*date*]. However, if an application has been made to the *FCA* for the approval of the performance by a *person* of the *benchmark submission function* in relation to a *firm*, and that application is approved before the end of that two-week period, then the first transitional period ends, for that *person* and *firm*, when the application is approved.

2.1.4 R The *benchmark submission function* does not apply in relation to a particular *person* and particular *firm* during the second transitional period if:

(1) an application has been made to the *FCA* for the approval of the performance by that *person* of the *benchmark submission function* in relation to that *firm* during the first transitional period; and

(2) that application has not been finally decided before the end of the first transitional period.

2.1.5 R The second transitional period begins when the first transitional period ends.

2.1.6 R The second transitional period ends, in relation to a particular *person* and *firm*, on the earlier of the following dates:

(1) the end of the six *month* period beginning on [*date*]; and

(2) the date on which the application referred to in *SUP* TP 2.1.4R is granted.

2.1.7 R An application is finally decided for the purpose of *SUP* TP 2.1:

(1) when the application is withdrawn;

(2) when the *FCA* grants the application for approval under section 62 of the *Act* (applications for approval: procedure and right to refer to the Tribunal);

(3) where the *FCA* has refused an application and the matter is not referred to the *Tribunal*, when the time for referring the matter to the *Tribunal* has expired;

(4) where the *FCA* has refused an application and the matter is referred to the *Tribunal*, when:

(a) if the reference is determined by the *Tribunal*, the time for bringing an appeal has expired; or

(b) on an appeal from a determination by the *Tribunal*, the Court itself determines the application.

TP 2.2 Transitional provisions relating to LIBOR administration: New firm

2.2.1 R If a *firm* has an interim *permission* under article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (*Interim permission* in relation to *administering a regulated benchmark*) as a *person* who has submitted an application for a *Part 4A permission*, *SUP* TP 2.2 applies in relation to that *firm*.

2.2.2 R No *controlled function* applies during the first transitional period.

2.2.3 R The first transitional period is the period of two weeks beginning on [*date*]. However if an application has been made to the *FCA* for the approval of the performance by a *person* of a *controlled function* in relation to the *firm*, and that application is approved before the end of that two-week period, then the first transitional period ends, for that *person*, *firm* and *controlled function*, when the application is approved.

2.2.4 R A *controlled function* does not apply in relation to a particular *person* and *firm* during the second transitional period if:

(1) an application has been made to the *FCA* for the approval of the performance by that *person* of that *controlled function* in relation to the *firm* during the first transitional period; and

(2) that application has not been finally decided before the end of the first transitional period.

2.2.5 R The second transitional period begins when the first transitional period ends.

2.2.6 R The second transitional period ends, in relation to a particular *person*, *firm* and *controlled function*, on the date that the application by the *firm* for a *Part 4A permission* referred to in article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 is finally decided (as defined in article 9 of that Order).

2.2.7 R An application for approval of the performance of a *controlled function* is finally decided for the purpose of *SUP* TP 2.2 in the circumstances described in *SUP* TP 2.1.7R.

SUP TP 2.3 Transitional provisions relating to LIBOR administration: Existing firm

2.3.1 R If a *firm* has an interim *permission* under article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (*Interim permission* in relation to *administering a regulated benchmark*) as a *person* who has submitted an application for a variation of a *Part 4A permission SUP* TP 2.3 applies in relation to that *firm*.

2.3.2 R The *benchmark administration function* does not apply during the first transitional period.

2.3.3 R The first transitional period is the period of two weeks beginning on [*date*]. However, if an application has been made to the *FCA* for the approval of the performance by a *person* of the *benchmark administration function* in relation to the *firm*, and that application is approved before the end of that two-week period, then the first transitional period ends, for that *person* and *firm*, when the application is approved.

2.3.4 R The *benchmark administration function* does not apply in relation to a particular *person* and *firm* during the second transitional period if:

(1) an application has been made to the *FCA* for the approval of the performance by that *person* of the *benchmark administration function* in relation to the *firm* during the first transitional period; and

(2) that application has not been finally decided before the end of the first transitional period.

2.3.5 R The second transitional period begins when the first transitional period ends.

2.3.6 R The second transitional period ends, in relation to a particular *person* and *firm*, on the earlier of the following dates:

(1) the later of the two following dates:

(a) the end of the six-*month* period beginning on [*date*]; and

(b) the date that the application by the *firm* for a variation of its *Part 4A permission* referred to in article 9 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 is finally decided (as defined in article 9 of that Order); and

(2) the date on which the application referred to in *SUP* TP 2.3.4R is granted.

2.3.7 R An application for approval of the performance of a *controlled function* is finally decided for the purpose of *SUP* TP 2.3 in the circumstances described in *SUP* TP 2.1.7R.

Annex F

General guidance on benchmark submission and administration (BENCH)

In this Annex, the entire text is new and is not underlined. This guide should be inserted on the Handbook website after SERV.

Handbook requirements in relation to benchmark submission activity and benchmark administration activity

1 Application and purpose

Application

1.1 G This special guide is for *firms* which carry out the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark.*

Purpose

1.2 G The purpose of this special guide is to help *benchmark submitters* and *benchmark administrators* by setting out which parts of the handbook apply to them when they carry out the *regulated activities* of *providing information in relation to a regulated benchmark* or *administering a regulated benchmark.*

Other parts of the Handbook will apply to *benchmark submitters* or to *benchmark administrators* in respect of other *regulated activities* they carry out.

2 Parts of the Handbook applicable to benchmark submission activity and benchmark administration activity

2.1 G The parts of the Handbook applicable to *benchmark submitters* and to *benchmark administrators* when they carry out the *regulated activities* of *providing information in relation to a regulated benchmark* or *administering a regulated benchmark* are listed in BENCH 2.2 G. *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 regulated benchmark* and *administering a regulated benchmark.*

2.2 G Parts of the Handbook applicable to the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark.*

Part of the Handbook	Applicability to the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark*

High Level Standards	Principles for Businesses (*PRIN*)	This applies.
	Senior management arrangements, Systems and Controls (*SYSC*)	This applies.
	Threshold Conditions (*COND*)	This applies.
	Statements of Principle and Code of Practice for Approved Persons (*APER*)	This applies to an *approved person* who performs a *Benchmark submission function* or a *Benchmark administration function*.
	The Fit and Proper test for Approved Persons (*FIT*)	This applies.
	General Provisions (*GEN*)	This applies.
	Fees Manual (*FEES*)	This applies.
Business Standards	Market Conduct Sourcebook (*MAR*)	*MAR* 1 (Code of Market Conduct), *MAR* 2 (Stabilisation), and *MAR* 8 (Benchmarks) apply.
Regulatory processes	Supervision manual (*SUP*)	This applies, with the following qualifications: (a) *SUP* 4 (Actuaries), 12 (Appointed representatives), 13 (Exercise of passport rights by UK firms), 13A (Qualifying for authorisation under the Act), 14 (incoming EEA firms changing details and cancelling qualification for authorisation), 17 (Transaction Reporting), 18 (Transfer of business), 21 (Waiver), App 2 (Insurers: Regulatory intervention points and run-off plans) and App 3 (Guidance on passporting issues) will not be relevant to the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark* .
	Decision Procedure and Penalties Manual (*DEPP*)	This applies.
Redress	Dispute Resolution: the Complaints sourcebook (*DISP*)	All firms are subject to the *Compulsory Jurisdiction* of the *Financial Ombudsman Service*. However, a firm which does not, and notifies the *FSA* under *DISP* 1.1.12R that it does not, conduct business with *eligible*

		complainants (persons eligible to have a *complaint* considered by the *Financial Ombudsman Service*, as defined in *DISP* 2.7) will be exempt from the rules on treating complaints fairly (*DISP* 1.2 to *DISP* 1.11) and from the Financial Ombudsman Funding *rules* (*FEES* 5.1 to *FEES* 5.7). The definition of the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark* mean that *benchmark submitters* and *benchmark administrators* will qualify for these exemptions if it applies for them.
	Complaints against the FSA (*COAF*)	This applies to the *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark*, although it contains no requirements for *benchmark submitters* or *benchmark administrators*.
Special Guides	Special Guide for benchmark administrators (*BENCH*)	This applies.
Regulatory Guides	The Enforcement Guide (*EG*)	This applies.
	The Perimeter Guidance Manual (*PERG*)	This applies.
Glossary of definitions		This applies.

Annex G

Amendments to the Perimeter Guidance Manual (PERG)

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

…

2.2.3 G Any *person* who is concerned that his proposed activities may require *authorisation* will need to consider the following questions (these questions are a summary of the issues to be considered and have been reproduced, in slightly fuller form in the decision tree in *PERG* 2 Annex 1 G):

…

(3) If the answer is 'Yes' to (1) or (2), will my activities involve *specified investments* in any way (see *PERG* 2.6)?

(3a) Are my activities related to a *regulated benchmark?*

(4) If ~~so~~ the answer is 'Yes' to (3) or (3a), will my activities be, or include, *regulated activities* (see *PERG* 2.7)?

…

…

2.3.3 G A *person* carrying out the activity of *administering a regulated benchmark* or *providing information in relation to a regulated benchmark* will always be carrying out these activities by way of business.

…

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*.

…

2.5.1A G The *regulated activities* of *providing information in relation to a regulated benchmark* and *administering a regulated benchmark* do not require the involvement of a *specified investment* in any way.

…

Regulated benchmarks activities

2.7.20D G There are two *regulated activities* associated with *regulated benchmarks*

(1) *providing information in relation to a regulated benchmark;* and

(2) *administering a regulated benchmark*

2.7.20E G A *person* will be *providing information in relation to a regulated benchmark* where information or an expression of opinion necessary to determine a *regulated benchmark* is provided to, or for the purposes of passing to, a *benchmark administrator* so he can *administer a regulated benchmark*.

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 regulated benchmark*.

2.7.20G G A *person* is not *providing information in relation to a regulated benchmark* where the information he is providing:

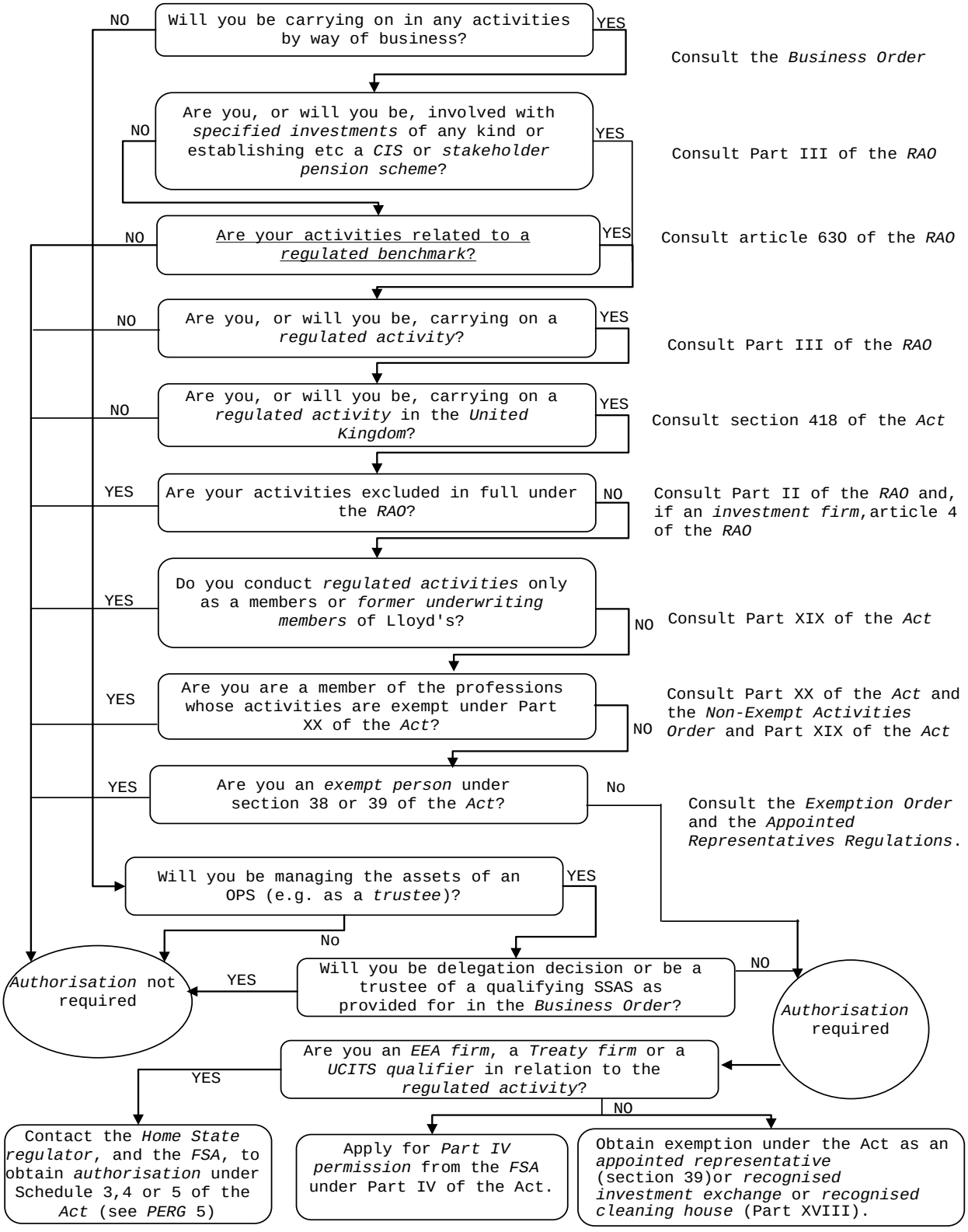
(1) consists solely of factual data obtained from a publicly available source; or

(2) is compiled by a subscription service for purposes other than in connection with the determination of a *regulated benchmark* and is provided to a *benchmark administrator* only in the administrator's capacity as a subscriber to the service.

…

2Annex 1G

1 G Do you need authorisation?


Will you be carrying on in any activities by way of business?
NO
YES
Consult the *Business Order*
Are you, or will you be, involved with *specified investments* of any kind or establishing etc a *CIS* or *stakeholder pension scheme*?
NO
YES
Consult Part III of the *RAO*
Are your activities related to a *regulated benchmark*?
NO
YES
Consult article 63O of the *RAO*
Are you, or will you be, carrying on a *regulated activity*?
NO
YES
Consult Part III of the *RAO*
Are you, or will you be, carrying on a *regulated activity* in the *United Kingdom*?
NO
YES
Consult section 418 of the *Act*
Are your activities excluded in full under the *RAO*?
YES
NO
Consult Part II of the *RAO* and, if an *investment firm*,article 4 of the *RAO*
Do you conduct *regulated activities* only as a members or *former underwriting members* of Lloyd's?
YES
NO
Consult Part XIX of the *Act*
Are you are a member of the professions whose activities are exempt under Part XX of the *Act*?
YES
NO
Consult Part XX of the *Act* and the *Non-Exempt Activities Order* and Part XIX of the *Act*
Are you an *exempt person* under section 38 or 39 of the *Act*?
YES
No
Consult the *Exemption Order* and the *Appointed Representatives Regulations*.
Will you be managing the assets of an OPS (e.g. as a *trustee*)?
YES
No
Will you be delegation decision or be a trustee of a qualifying SSAS as provided for in the *Business Order*?
YES
NO
Authorisation not required
Authorisation required
Are you an *EEA firm*, a *Treaty firm* or a *UCITS qualifier* in relation to the *regulated activity*?
YES
NO
Contact the *Home State regulator*, and the *FSA*, to obtain *authorisation* under Schedule 3,4 or 5 of the *Act* (see *PERG* 5)
Apply for *Part IV permission* from the *FSA* under Part IV of the Act.
Obtain exemption under the Act as an *appointed representative* (section 39)or *recognised investment exchange* or *recognised cleaning house* (Part XVIII).

Appendix 2

Designation of Handbook provisions

FSA Handbook provisions will be 'designated' to create a FCA Handbook and a PRA Handbook on the date that the regulators exercise their legal powers to do so. Please visit our website for further details about this process.

We plan to designate the Handbook Provisions which we are proposing to create and/or amend within this Consultation Paper as follows. These designations are draft and are subject to change prior to the new regulators exercising their legal powers.

Handbook Provision	Designation
Glossary: Benchmark submitter Benchmark submission function Benchmark administrator Benchmark administration function Benchmark submission Conflicts of Interest Policy Regulated benchmark Providing information in relation to a regulated benchmark Administering a regulated benchmark	FCA and PRA
MAR 8.1.1R MAR 8.1.2G MAR 8.2.1R MAR 8.2.2G MAR 8.2.3R MAR 8.2.4G MAR 8.2.5R MAR 8.2.6R MAR 8.2.7G MAR 8.2.8R MAR 8.2.9R MAR 8.2.10G MAR 8.2.11G MAR 8.2.12R MAR 8.3.1R	FCA

MAR 8.3.2R MAR 8.3.3R MAR 8.3.4R MAR 8.3.5R MAR 8.3.6G MAR 8.3.7R MAR 8.3.8R MAR 8.3.9R MAR 8.3.10R MAR 8.3.11G MAR 8.3.12G	FCA
PERG 2.2.3G PERG 2.3.3G PERG 2.4.8G PERG 2.5.1AG PERG 2.7.20DG PERG 2.7.20EG PERG 2.7.20FG PERG 2.7.20GG PERG 2 ANNEX 1G	FCA and PRA
SUP 10A.1.5R SUP 10A.1.6R SUP 10A.1.7R SUP 10A.1.14R SUP 10A.1.15R SUP 10A.1.16R SUP 10A.1.23R SUP 10A.1.24G SUP 10A.4.5R SUP 10A.7.11R SUP 10A.7.12R SUP TP 2.1.1R SUP TP 2.1.2R SUP TP 2.1.3R SUP TP 2.1.4R SUP TP 2.1.5R SUP TP 2.1.6R SUP TP 2.1.7R SUP TP 2.2.1 SUP TP 2.2.2R SUP TP 2.2.3R SUP TP 2.2.4R SUP TP 2.2.5R SUP TP 2.2.6R	FCA

SUP TP 2.2.7R SUP TP 2.3.1R SUP TP 2.3.2R SUP TP 2.3.3R SUP TP 2.3.4R SUP TP 2.3.5R SUP TP 2.3.6R SUP TP 2.3.7R	FCA
FIT 1.2.4A R	FCA and PRA
FEES 3.2.7R FEES 3 ANNEX 1 R	FCA and PRA
FEES 4 ANNEX 1 R FEES 4 ANNEX 2 R FEES TP 1.1 R	FCA
BENCH 1.1G BENCH 1.2G BENCH 2.1G BENCH 2.2G	FCA

PUB REF: 004607

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