
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019

PART 2

Amendment of EU Regulations

CHAPTER 1

Amendment of [Regulation \(EU\) 2016/1011](#)

Critical benchmarks: review of critical benchmarks

15. Before Article 20 (critical benchmarks) insert—

“Article A20

Critical benchmarks: review of critical benchmarks

1. The FCA must conduct a review of critical benchmarks in accordance with paragraphs 2 to 4.
2. The review must consider:
 - (a) whether an administrator located in the United Kingdom provides a benchmark that either:
 - (i) satisfies one or more of conditions (a), (b) or (c) of paragraph 1 of Article 20; or
 - (ii) satisfies only point (c)(ii) and (iii) of paragraph 1 of Article 20; and
 - (b) where a benchmark satisfies point (a)(i) or (ii) of this paragraph, whether the FCA recommends that the benchmark is recognised as critical.
3. The FCA must provide a written report to the Treasury:
 - (a) setting out the result of the review; and
 - (b) making a recommendation as to whether any benchmark that satisfies point (a)(i) or (ii) of paragraph 2 should be recognised as critical.
4. The FCA must conduct the review and provide the report to the Treasury:
 - (a) within the period of two years beginning with exit day; and
 - (b) thereafter, at intervals of at least every two years, with each interval beginning with the date on which the last report was provided.
5. The Treasury must by regulations specify that a benchmark is critical if:
 - (a) the FCA has recommended that the benchmark is recognised as critical in accordance with the review procedure specified in paragraphs 2 and 3; and

- (b) the Treasury determines that the FCA’s review complies with the requirements of paragraphs 2 and 3.
6. The Treasury may by regulations specify that a benchmark is critical if:
- (a) the benchmark is provided by an administrator located in the United Kingdom; and
 - (b) the Treasury considers that the benchmark either:
 - (i) satisfies one or more of conditions (a), (b), or (c) in paragraph 1 of Article 20; or
 - (ii) satisfies only the criteria in point (c)(ii) and (iii) in paragraph 1 of Article 20.
7. The Treasury may not specify a regulated-data benchmark as a critical benchmark under paragraph 5 or 6 of this Article or under paragraph 5 of Article 20.”.