



Financial Services Act 2021

2021 CHAPTER 22

Benchmarks

19 Changes to and cessation of a benchmark

- (1) Article 28 of the Benchmarks Regulation (changes to and cessation of a benchmark) is amended as follows.
- (2) In paragraph 1—
 - (a) omit “, together with the benchmark statement referred to in Article 27,”,
 - (b) for “a procedure” substitute “a robust procedure”, and
 - (c) omit “and shall be updated and published whenever a material change occurs”.
- (3) After paragraph 1 insert—
 - “1A. The procedure described in paragraph 1—
 - (a) must be published with the benchmark statement for the benchmark when that statement is published in accordance with the first or second subparagraph of Article 27(1), and
 - (b) must be updated and published whenever a material change occurs.
 - 1B. In the case of a critical benchmark—
 - (a) on the day on which a procedure described in paragraph 1 is published in accordance with paragraph 1A(a), the administrator must give the FCA an assessment of the matters described in paragraph 1C,
 - (b) the FCA must, before the end of the consideration period, consider whether a procedure published in accordance with paragraph 1A(a) satisfies paragraph 1,
 - (c) before publishing an update of a procedure described in paragraph 1 (whether in accordance with paragraph 1A(b) or otherwise), an administrator must give the update to the FCA, together with an assessment of the matters described in paragraph 1C,
 - (d) where the FCA is given an update of a procedure described in paragraph 1 by an administrator, it must, before the end of the

Status: This is the original version (as it was originally enacted).

- consideration period, consider whether the update satisfies paragraph 1, and
- (e) an administrator must not publish an update of a procedure described in paragraph 1 unless—
 - (i) the FCA has given a written notice to the administrator confirming that the update satisfies paragraph 1, or
 - (ii) the consideration period has expired without the FCA giving a written notice to the administrator stating that the update does not satisfy that paragraph.
- 1C. An assessment provided by an administrator for the purposes of paragraph 1B(a) or (c) must assess the following matters—
- (a) the nature and extent of the current use of the benchmark,
 - (b) the availability of suitable alternatives to the benchmark, and
 - (c) how prepared users of the benchmark are for changes to, or the cessation of, the benchmark.
- 1D. For the purposes of paragraph 1B, “the consideration period”, in relation to a procedure or an update of a procedure, means the period of 60 days beginning with the day on which the procedure is published or the update of the procedure is given to the FCA (as appropriate) (“the relevant day”), subject to any extension under paragraph 1E.
- 1E. The FCA may extend the consideration period by giving a written notice to the administrator before its expiry but may not extend the period beyond the end of the period of six months beginning with the relevant day.”