
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement parts of Regulation (EU) No 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (OJ L171, 29/06/2016 p.1) and amending Directive 2008/48/EC (OJ L133, 22/05/2008 p.66) and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L173 12/06/2014 p.1) (“the EU Benchmarks Regulation 2016”).

Part 1 of these Regulations (introductory provisions) designates the Financial Conduct Authority (the “FCA”) as the competent authority in the United Kingdom responsible for carrying on the duties of the competent authority under the EU Benchmarks Regulation 2016.

Part 2 of these Regulations (FCA powers over Miscellaneous BM persons) makes provision for the FCA to exercise powers in respect of persons who are involved in the provision of a benchmark (Miscellaneous BM persons) but are not benchmark administrators within the meaning of Article 3 of the EU Benchmarks Regulation 2016.

Part 3 of these Regulations (FCA powers in relation to persons publishing or contributing to benchmarks) makes provision for the FCA to impose requirements on persons requiring them to administer or contribute to a benchmark.

Part 4 of these Regulations (administering a benchmark) makes provision in respect of the administration of a benchmark.

Part 5 of these Regulations (amendments to the Act) makes amendments to the Financial Services and Markets Act 2000 (c.8) (“the Act”) to give effect to the EU Benchmarks Regulation 2016.

Section 22 of the Act (regulated activities) is amended to provide that administration of a benchmark is a regulated activity. There are also other amendments to the Act.

Part 6 of these Regulations (amendments to secondary legislation) makes amendments to secondary legislation made under the Act. Amendments are made to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) to provide that administering a regulated benchmark is a specified activity for the purposes of section 22 of the Act. There are also amendments to other secondary legislation.

Part 7 of these Regulations makes transitional provisions in respect of benchmarks.

Part 8 of these Regulations (miscellaneous provisions) makes a minor amendment to the Act for the purposes of Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (“the Directive”) (OJ No L194, 19.7.2016, p1). Provision is also made in Part 8 for a review of these Regulations within five years.

An impact assessment of the effect these Regulations will have on the costs of business and the voluntary sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ or www.gov.uk and is published alongside these Regulations on www.legislation.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018.