

Chapter 2

Parts of the Handbook
applicable to regulated
benchmark administrators
and benchmark contributors

2.3 Guidance for benchmark users: articles 28(2) and 29(1) of the benchmarks regulation

2.3.1 **G** All *supervised entities* are reminded of the requirements of articles 28(2) and 29(1) of the *benchmarks regulation*.

2.3.2 **G**

- (1) Article 28(2) imposes requirements on *supervised entities* in relation to the need to produce and maintain robust written plans setting out the actions that they would take in the event that a *benchmark* which they use materially changes or ceases to be provided.
- (2) The effect of the prohibition in article 29(1) is that, subject to the exclusions in article 2 of the *benchmarks regulation*, a *firm* which is a *supervised entity* may only use a *benchmark* in cases where:
 - (a) if the benchmark administrator is *located* in the *UK*, the benchmark administrator is listed in the register maintained by the *FCA* under article 36 of the *benchmarks regulation*; or
 - (b) if the benchmark administrator is *located* outside the *United Kingdom*, the benchmark administrator and the *benchmark* itself is listed in the register maintained by the *FCA* under article 36 of the *benchmarks regulation*.

2.3.3 **G** In considering articles 28(2) and article 29(1), *firms* will need to consider the *benchmarks regulation* and the *onshored regulations* which were previously *EU regulations* made under the *EU benchmarks regulation*. *Firms* should also note the points below.

- (1) "Use of a benchmark" is defined in article 3.1(7) of the *benchmarks regulation*. *ESMA* has provided guidance on that definition (when used in the context of the *EU benchmarks regulation*) in the form of "Q&As". That guidance is available on *ESMA's* website.
- (2) Article 28(2) and article 29(1) of the *benchmarks regulation* may not apply to the use of a *benchmark* in cases which are excluded from the requirements of the *benchmarks regulation* (see article 2 of the regulation).

- (3) The prohibition in article 29 of the *benchmarks regulation* is subject to the transitional provisions in article 51 of that regulation.
- (14) *ESMA* has produced guidance (in the form of "Q&As") on various aspects of the *EU benchmarks regulation*. That guidance is available on *ESMA's* website.