

Chapter 15B

Applications and notifications
under the benchmarks
regulation and powers over
Miscellaneous BM persons

15B.5 Powers over Miscellaneous BM persons

- 15B.5.1 G
- (1) Regulation 6 of the *UK Benchmarks Regulations 2018* enables the *FCA* to impose a requirement on a Miscellaneous BM person and to vary or cancel such a requirement.
 - (2) Miscellaneous BM person is defined in regulation 5(2) of the *UK Benchmarks Regulations 2018* as a person who is not an authorised person and is:
 - (a) involved in the provision of, or contribution of input data to, a benchmark;
 - (b) a service provider to whom functions or any relevant services and activities in the provision of a benchmark have been outsourced;
 - (c) a person who is not the service provider but who is or has been party to a contract in relation to the outsourcing of functions or any relevant services and activities in the provision of a benchmark;
 - (d) a legal representative of a benchmark administrator *located* in a third country which has obtained or has applied for prior recognition as referred to in article 32(1) and as provided for in article 32(3) of the *benchmarks regulation*;
 - (e) a person who administers a benchmark relying on article 46(8) or 51(4) of the *benchmarks regulation*; or
 - (f) a *supervised entity*.
 - (3) A *person* cannot fall within the definition of Miscellaneous BM person if that *person* is an *authorised person*.
- 15B.5.2 G
- Regulation 6(1) of the *UK Benchmarks Regulations 2018* provides that the power to impose, vary or cancel requirements in relation to Miscellaneous BM persons is exercisable if it appears to the *FCA* that:
- (a) the Miscellaneous BM person has contravened or is likely to contravene a relevant requirement;
 - (b) it is desirable for the *FCA* to exercise its powers in order to advance any of its operational objectives but only in respect of a Miscellaneous BM person coming within regulation 5(2)(d) or (e); or
 - (c) it is desirable for the *FCA* to exercise its powers to facilitate the performance of its functions under the *benchmarks regulation*.

Regulation 6(1)(b) of the *UK Benchmarks Regulations 2018* would enable the *FCA* to impose a requirement on a Miscellaneous BM person coming within regulation 5(2)(d) or (e) where it is desirable for the *FCA* to do so in order to advance any of the *FCA*'s operational objectives.

15B.5.3

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(1) The *FCA* anticipates that it would generally only need to rely on the ground in regulation 6(1)(b) of the *UK Benchmarks Regulations 2018* for the purpose of supervising a Miscellaneous BM person listed in regulation 5(2)(d) or (e) of those regulations where such persons fall outside the scope of the other two grounds in regulation 6(1) of the *UK Benchmarks Regulations 2018* and outside the scope of the *FCA*'s powers under the Act.

(2) [deleted]

(3) [deleted]