

Supervision

SUP TP 10 Benchmarks Regulation Transitional Provisions

10.1			Purpose and application
10.1.1	G		SUP TP 10 contains transitional provisions relating to the changes to the <i>Regulated Activities Order</i> which have been made as a result of the <i>benchmarks regulation</i> .
10.1.2	G		This TP applies to all <i>firms</i> .
10.2			Overview
10.2.1	G	(1)	The <i>EU benchmarks regulation</i> applied from 1 January 2018. The <i>benchmarks regulation</i> is the <i>UK</i> version of, and replacement for, this <i>EU regulation</i> and applies from <i>IP completion day</i> .
		(2)	Article 34 of the <i>benchmarks regulation</i> requires the administrator of a <i>benchmark</i> to be authorised or registered. There is no corresponding requirement in relation to <i>benchmark contributors</i> .
		(3)	In the <i>UK</i> , the requirement for administrators to be authorised or registered has been given effect through the introduction of a new <i>regulated activity (administering a benchmark)</i> which replaces the <i>regulated activity of administering a specified benchmark</i> .
		(4)	The <i>UK Benchmarks Regulations 2018</i> therefore make various changes as a result of the <i>benchmarks regulation</i> including the following:
		(a)	they introduce a new <i>regulated activity: administering a benchmark</i> (article 63S of the <i>Regulated Activities Order</i>);
		(b)	regulation 59 provides that a person who carries on the <i>regulated activity of administering a specified benchmark</i> (article 63O(1)(b) of the <i>Regulated Activities Order</i>) without <i>permission</i> to carry on that activity is not by virtue of section 20(1) of the <i>Act</i> to be taken to have contravened a requirement imposed by the <i>FCA</i> if that <i>person</i> has <i>permission</i> to carry on the new <i>regulated activity of administering a benchmark</i> (article 63S(1) of the <i>Regulated Activities Order</i>);
		(c)	regulation 60 provides that a <i>person</i> who carries on the <i>regulated activity of providing information in relation to a specified benchmark (benchmark B)</i> (article 63O(1)(a) of the <i>Regulated Activities Order</i>) without <i>permission</i> to carry on that activity:
		(i)	does not contravene the <i>general prohibition</i> ; and
		(ii)	is not by virtue of section 20(1) or (1A) of the <i>Act</i> to be taken to have contravened a requirement imposed by the <i>FCA</i> ,
			if the administrator of <i>benchmark B</i> has <i>permission</i> to carry on the new <i>regulated activity of administering a benchmark</i> (article 63S(1) of the <i>Regulated Activities Order</i>); and
		(d)	Part 7 of the <i>UK Benchmarks Regulations 2018</i> contains various transitional provisions to reflect those in article 51 of the <i>benchmarks regulation</i> .
10.2.2	G	(1)	The effect of the changes in SUP TP 1.2.1G(4)(a) to (c) is as follows.
		(2)	A <i>firm</i> which, immediately before 1 January 2018, had a <i>Part 4A permission</i> in relation to <i>administering a specified benchmark</i> continues to require that <i>Part 4A permission</i> until the earlier of such time as:

		(a)	it obtains a <i>Part 4A permission</i> in relation to the new <i>regulated activity</i> of <i>administering a benchmark</i> ; or
		(b)	it stops <i>administering a specified benchmark</i> .
	(3)		A <i>firm</i> which, immediately before 1 January 2018, had a <i>Part 4A permission</i> in relation to <i>providing information in relation to a specified benchmark</i> continues to require that <i>Part 4A permission</i> in respect of the relevant <i>specified benchmark</i> until the earlier of such time as:
		(a)	the administrator of the <i>relevant specified benchmark</i> obtains a <i>Part 4A permission</i> in relation to the new <i>regulated activity</i> of <i>administering a benchmark</i> ;
		(b)	the <i>firm</i> stops <i>providing information in relation to a specified benchmark</i> .
	(4)		<i>Persons</i> who administer, contribute <i>input data</i> to or use a <i>benchmark</i> should also note the transitional provisions in Part 7 of the <i>UK Benchmarks Regulations 2018</i> and article 51 of the <i>benchmarks regulation</i> .
10.2.3	G		The above means that:
	(1)	(a)	A <i>firm</i> (A) which, prior to 1 January 2018, had a <i>Part 4A permission</i> to <i>administer a specified benchmark</i> (a <i>benchmark administrator</i>) and which wishes to continue administering that <i>benchmark</i> , will need to apply for a <i>Part 4A permission</i> in relation to <i>administering a benchmark</i> (subject to the transitional provisions in Part 7 of the <i>UK Benchmarks Regulations 2018</i> and article 51 of the <i>benchmarks regulation</i>).
		(b)	A's existing <i>Part 4A permission</i> for <i>administering a specified benchmark</i> will be removed when it obtains the new <i>Part 4A permission</i> .
		(c)	Until that point, A will continue to be subject to the <i>rules</i> which applied to <i>benchmark administrators</i> immediately prior to 29 June 2018.
	(2)		A <i>firm</i> which wishes to start <i>administering a benchmark</i> will need to apply for a <i>Part 4A permission</i> in relation to <i>administering a benchmark</i> (subject to the transitional provisions in Part 7 of the <i>UK Benchmarks Regulations 2018</i> and article 51 of the <i>benchmarks regulation</i>).
10.3			Transitional provision: the application of the previous version of the Supervision manual
10.3.1	G	(1)	As is explained in SUP TP 10.2, the <i>rules</i> which applied to <i>benchmark administrators</i> (in their capacity as such) before 29 June 2018 will continue to apply to those <i>firms</i> until their <i>Part 4A permission</i> in relation to <i>administering a specified benchmark</i> has been removed or (where applicable) they have been authorised to <i>administer a benchmark</i> .
		(2)	That includes some <i>rules</i> in the Supervision manual which have been amended or deleted with effect from 29 June 2018. The table in SUP TP 10.3.2 specifies which of the amended or deleted <i>rules</i> in the Supervision manual continue to apply and how.

10.3.2	(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	1	SUP 3.1.1R	R	The <i>rule</i> in column 2, as it was on 28 June 2018, continues to apply to a <i>benchmark</i>	From 29 June 2018	Already in force

10.3.2	(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	2	SUP 10A.4.4R and SUP 10A.7.1.13R	R	<p><i>administrator</i> in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i>, or ceases to be authorised for <i>administering a specified benchmark</i></p> <p>The <i>rules</i> in column 2, as they were on 28 June 2018, continue to apply to a <i>benchmark administrator</i>⁵ in relation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i>, or ceases to be authorised for <i>administering a specified benchmark</i>.</p>	From 29 June 2018	Already in force
	3	SUP 10A.8.2R	R	<p>The <i>rule</i> in column 2, as it was on 28 June 2018 continues to apply to a <i>benchmark administrator</i> in re-</p>	From 29 June 2018	Already in force

10.3.2	(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
				lation to a <i>specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i> , or ceases to be authorised for <i>administering a specified benchmark</i> .		