

BENCHMARKS REGULATION (AMENDMENT) (FINANCIAL OMBUDSMAN SERVICE) INSTRUMENT 2018

Powers exercised by the Financial Ombudsman Service Limited

A. The Financial Ombudsman Service Limited:

- (1) makes (and amends) the voluntary jurisdiction rules and fixes (and varies) the standard terms for Voluntary Jurisdiction participants relating to the voluntary jurisdiction as set out in Annex A to this instrument; and
- (2) fixes (and varies) the standard terms for Voluntary Jurisdiction participants relating to the voluntary jurisdiction to incorporate the changes to the Glossary made by the Financial Conduct Authority in the Benchmarks Regulation (Amendment) Instrument 2018 as set out in Annex B to this instrument,

in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:

- (a) section 227 (Voluntary jurisdiction);
- (b) paragraph 8 (Information, advice and guidance) of Schedule 17; and
- (c) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

B. The making (and amending) of the voluntary jurisdiction rules and the fixing (and varying) of the standard terms by the Financial Ombudsman Service Limited are subject to the approval of the Financial Conduct Authority.

Approval by the Financial Conduct Authority

C. The Financial Conduct Authority approves the making (and amending) of rules and the fixing (and varying) of standard terms by the Financial Ombudsman Service Limited in this instrument.

Commencement

D. This instrument comes into force on 27 July 2018.

Amendments to the Handbook

E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex A and incorporates the changes to the Glossary in Annex B to this instrument, for the purpose of the Voluntary Jurisdiction of the Financial Ombudsman Service.

Citation

F. This instrument may be cited as the Benchmarks Regulation (Amendment) (Financial Ombudsman Service) Instrument 2018.

By order of the Board of the Financial Ombudsman Service Limited
25 July 2018

Approved by the Board of the Financial Conduct Authority
26 July 2018

Annex A

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Jurisdiction of the Financial Ombudsman Service

...

2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

...

(2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

(a) an activity (other than administering a benchmark) carried on after 28 April 1988 which:

...

...

(c) activities which (at ~~3 January 2018~~ 27 July 2018) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);

...

...

2 Annex 1G Regulated Activities for the Voluntary Jurisdiction at ~~3 January 2018~~ 27 July 2018

This table belongs to *DISP 2.5.1R*

The activities which were covered by the *Compulsory Jurisdiction* (at ~~3 January 2018~~ 27 July 2018) were:

(1) for *firms*:

(a) *regulated activities* (other than ~~auction-regulated bidding~~ regulation bidding and administering a benchmark)

...

...

The activities which (at ~~3 January 2018~~ 27 July 2018) were *regulated activities* were, in accordance with section 22 of the *Act* (Regulated Activities), any of the following activities specified in Part II of the *Regulated Activities Order* (with the addition of *auction regulation bidding* and administering a benchmark):

...

Annex B

Amendments to the Glossary of definitions made by the FCA in the Benchmarks Regulation (Amendment) Instrument 2018

The following new definitions are incorporated into the standard terms for voluntary jurisdiction participants relating to the voluntary jurisdiction.

<i>administering a benchmark</i>	the <i>regulated activity</i> specified in article 63S of the <i>Regulated Activities Order</i> , which, in summary, means acting as the administrator of a benchmark as defined in article 3.1(3) of the <i>benchmarks regulation</i> ;
<i>benchmarks regulation</i>	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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014. [Note: see http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1011]