General guidance on Benchmark Submission and Administration

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General guidance on Benchmark Submission and Administration

Chapter 1

Handbook requirements in relation to benchmark contribution activity and benchmark administration activity

	1.1 Application and purpose
1.1.1	G This special guide is for <i>firms</i> which;
	(1) carry out the regulated activity of administering a benchmark;(2) contribute input data to a <i>BMR benchmark administrator</i>; or
	(3) use a benchmark.
1.1.2	G Purpose The purpose of this special guide is to:
	(1) help regulated benchmark administrators by setting out which parts of the Handbook apply to them when they carry out the regulated activity of administering a benchmark;
	(2) help benchmark contributors by setting out which parts of the Handbook apply to them when they contribute input data to a BMR benchmark administrator;
	(3) remind all <i>firms</i> of their obligations under the <i>benchmarks regulation</i> when using a <i>benchmark</i> .
	Benchmarks Regulation and transitional arrangements
1.1.3	G (1) The EU benchmarks regulation applied from 1 January 2018. The benchmarks regulation is the United Kingdom version of this EU regulation and applies from IP completion day.
	(2) Various changes were made to the <i>Regulated Activity Order</i> as a result of the EU <i>benchmarks regulation</i> . In particular:
	(a) A new regulated activity of: administering a benchmark (article 63S of the Regulated Activities Order) was introduced.
	 (b) The regulated activity of administering a specified benchmark ceased to apply (subject to the transitional provisions described in SUP TP 10).
	 (c) The regulated activity of providing information in relation to a specified benchmark ceased to apply (subject to the transitional provisions described in ■ SUP TP 10). However, benchmark contributors which contribute input data to a BMR benchmark administrator are still subject to various requirements in the Handbook and are subject to the benchmarks regulation when doing so.

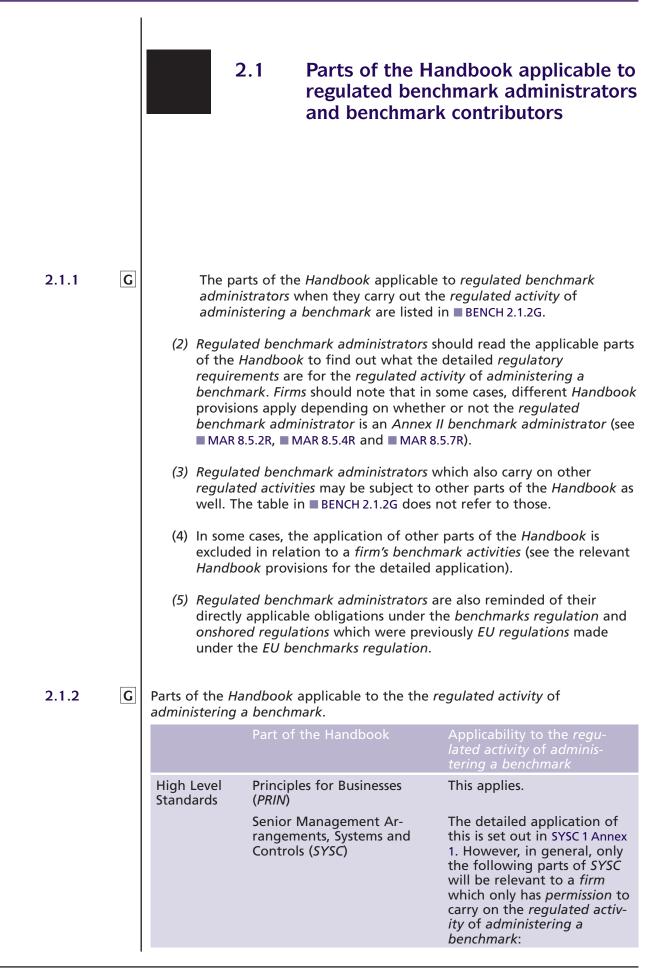
BENCH 1 : Handbook requirements in relation to benchmark

- (3) SUP TP 10 contains *guidance* on the transitional arrangements governing the changes to the *regulated activities* above.
- (4) The following transitional provisions are also relevant to a *firm* which, immediately before 1 January 2018, was authorised to *administer a specified benchmark* or to *provide information in relation to a specified benchmark*:
 - (a) SYSC TP 6 and SYSC TP 7;
 - (b) FEES TP 17AR;
 - (c) MAR TP 1; and
 - (d) SUP TP 10.

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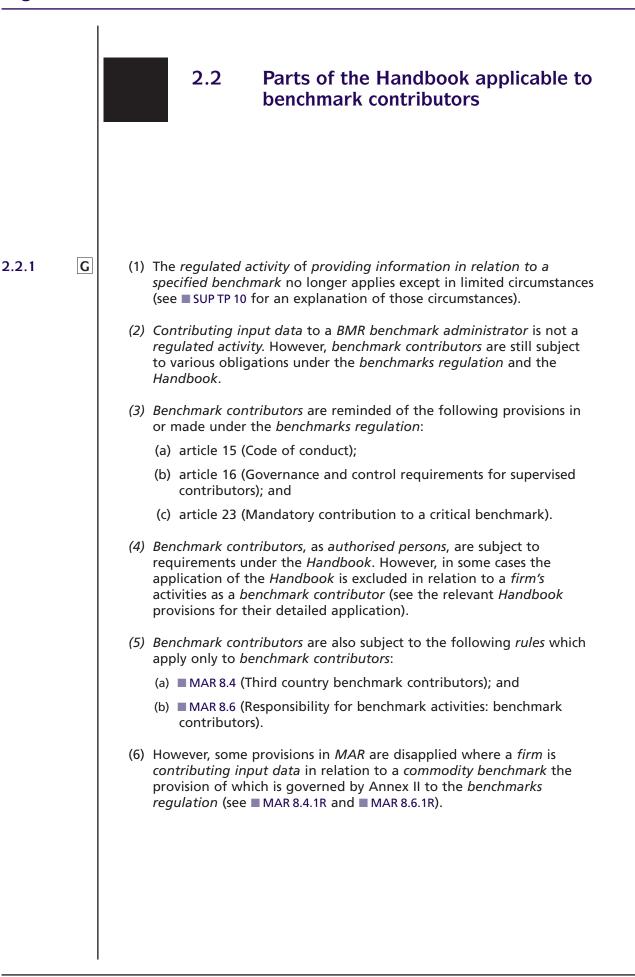
Chapter 2

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



	Part of the Handbook	Applicability to the <i>regu-</i> lated activity of adminis-
		tering a benchmark
		(a) SYSC 1;
		(b) SYSC 18.3.9G;
		(c) SYSC 22 to SYSC 26.
	Statements of Principle and Code of Practice for Ap- proved Persons (<i>APER</i>)	This does not apply
	Code of Conduct sourcebook (COCON)	This applies to a <i>firm's con-</i> <i>duct rules staff</i> .
	The Fit and Proper test for Employees and Senior Per- sonnel (<i>FIT</i>)	This applies.
	General Provisions (GEN)	This applies. However, the application of GEN 4 is very limited in relation to <i>admin-</i> <i>istering a benchmark</i> . GEN 7 does not apply to the activ- ity of <i>administering a</i> <i>benchmark</i> .
	Fees Manual (FEES)	This applies.
Business Standards	Market Conduct Sourcebook (<i>MAR</i>)	MAR 1 (Market Abuse), MAR 2 (Stabilisation) and MAR 8 (Benchmarks) apply.
Regulatory processes	Supervision manual (SUP)	This applies, with the follow- ing qualifications:
		(a) In general only the fol- lowing parts of <i>SUP</i> will be relevant to a <i>firm</i> which only has <i>permission</i> to carry on the <i>regulated activity</i> of <i>administering a benchmark</i> : SUP 1-2, SUP 5-8, SUP 9, SUP 10C, SUP 15-15B, SUP 16.1-16.3 and SUP 16.10.
		(b) [deleted]
		(c) A regulated benchmark administrator is an SMCR firm and so SUP 10C applies to it. That chapter deals with the designated senior management functions that apply to a regulated benchmark administrator and other SMCR firms.
		If a regulated benchmark ad- ministrator is a core SMCR firm, the following FCA-des- ignated senior management functions, which normally apply to a core SMCR firm, do not apply:
		(i) the compliance oversight function; and

	Part of the Handbook	Applicability to the regu- lated activity of adminis- tering a benchmark
		(ii) the money laundering re- porting function.
		That is because those FCA- designated senior manage- ment functions are specified by incorporation of require- ments in SYSC and the relev- ant parts of SYSC do not ap- ply in relation to benchmark activities (which includes ad- ministering a benchmark).
	Decision Procedure and Pen- alties Manual (<i>DEPP</i>)	This applies.
Handbook Guides	General guidance on Benchmark Administration, Contribution and Use (<i>BENCH</i>)	This applies.
Regulatory	The Enforcement Guide (EG)	This applies.
Guides	The Perimeter Guidance Manual (<i>PERG</i>)	This applies.
Glossary of definitions		This applies.



		2.3 Guidance for benchmark users: articles 28(2) and 29(1) of the benchmarks regulation
2.3.1	G	All <i>supervised entities</i> are reminded of the requirements of articles 28(2) and 29(1) of the <i>benchmarks regulation</i> .
2.3.2	G	 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. 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 and the benchmark itself is listed in the register maintained by the FCA under article 36 of the benchmarks regulation 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.