WHEREAS:
A. The Authority has, in accordance with Article 5 of the Designation Order, appointed persons to exercise functions referred to in Article 5(1) of the Designation Order, which include the function of the Financial Conduct Authority of making rules, giving guidance and issuing codes.
B. By virtue of Article 5(3)(a) of the Designation Order the persons appointed may discharge the relevant functions as if they were the governing body of the Financial Conduct Authority.
C. By virtue of Article 7(1) of the Designation Order this Instrument shall be treated as if it had been made by the Financial Conduct Authority acting through its governing body.
D. Article 2(1)(c) of the Early Commencement Order commenced certain of the Financial Conduct Authority’s rule making and other powers for the purposes specified in Part 3 of the Schedule to that Order.

Interpretation
1 In this Instrument (including the Recitals):
   (2) “Early Commencement Order” means the Financial Services Act 2012 (Commencement No. 1) Order 2013 (SI 2013/113);
   (3) “the 2000 Act” means the Financial Services and Markets Act 2000;
   (4) “the 2012 Act” means the Financial Services Act 2012;
   (5) “the Authority” means the Financial Services Authority; and
   (6) “Financial Conduct Authority” means the body corporate referred to in section 1A of the 2000 Act as amended by section 6 of the 2012 Act.

Rules etc. made, given or amended by the Financial Conduct Authority
2 In accordance with Article 2(1) of the Early Commencement Order and in the exercise of the powers and related provisions specified in paragraph 3, the Financial Conduct Authority makes, amends, issues, gives, or imposes each provision in the Annexes to this Instrument as set out below:

   (1) The modules of the Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this Instrument listed in column (2).

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
</tr>
<tr>
<td>Fit and Proper test for Approved Persons (FIT)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Fees manual (FEES)</td>
<td>Annex C</td>
</tr>
<tr>
<td>Market Conduct sourcebook (MAR)</td>
<td>Annex D</td>
</tr>
</tbody>
</table>
(2) General guidance on the parts of the Handbook that apply to benchmark submitters and to benchmark administrators when they carry out the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark is made in the form of Annex F to this instrument. This guidance is a Handbook Guide and does not form part of the Handbook.

(3) The Perimeter Guidance manual (PERG) is amended in accordance with Annex G to this Instrument. The general guidance in PERG does not form part of the Handbook.

3 The Financial Conduct Authority makes, amends, issues, gives or imposes the provisions in the Annexes to this Instrument in exercise of the following powers and related provisions of the 2000 Act, as amended by the 2012 Act:

(1) Section 137A (The FCA’s general rules);
(2) Section 137F (Rules requiring participation in benchmark);
(3) Section 137T (General supplementary powers); and
(4) Section 139A (Power of the FCA to give guidance).

4 The rule-making powers in paragraph 3 are specified for the purpose of section 138G (Rule-making instruments) of the 2000 Act, as amended by the 2012 Act.

Commencement: Financial Conduct Authority

5 The Financial Conduct Authority directs that paragraph 2 of this Instrument comes into force on 2 April 2013.

Citation

6 This Instrument may be cited as the Benchmarks Instrument 2013.

By order of the persons appointed under Article 5 of the Designation Order to discharge specified functions of the Financial Conduct Authority as if they were its governing body

19 March 2013
Annex A

Amendments to the Glossary of definitions

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

Insert the following new definitions and amendments in the appropriate alphabetical position. The text is not underlined.

administering a specified benchmark

The regulated activity, specified in article 63O(1)(b) of the Regulated Activities Order, which means:

(1) administering the arrangements for determining a specified benchmark, or

(2) collecting, analysing or processing information or expressions of opinion for the purpose of determining a specified benchmark, or

(3) determining a specified benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.

BENCH

Guide for Benchmark Activities (BENCH)

benchmark administrator

A person carrying out the regulated activity of administering a specified benchmark.

benchmark administration function

FCA-controlled function CF50 in the table of FCA-controlled functions which is the function of acting in the capacity of a person who is responsible for oversight of a firm’s compliance with MAR 8.3 (requirements for benchmark administrators).

benchmark submitter

A person carrying out the regulated activity of providing information in relation to a specified benchmark.

benchmark submission

The information or expression of opinion provided to a benchmark administrator for the purpose of determining a specified benchmark as defined in article 63O(2)(a) of the Regulated Activities Order

benchmark submission function

FCA-controlled function CF40 in the table of FCA-controlled functions which is the function of acting in the capacity of a person who is responsible for oversight of a firm’s compliance with MAR 8.2 (benchmark manager).

providing information in relation to a specified

The regulated activity, specified in article 63O(1)(a) of the Regulated Activities Order, which in summary means making benchmark submissions.
Amend the following definition as shown.

**conflicts of interest policy**

the policy established and maintained in accordance with SYSC 10.1.10 R.

(1) the policy established and maintained in accordance with SYSC 10.1.10R; and

(2) (in MAR 8) the policy established and maintained in accordance with MAR 8.2.8G which identifies circumstances that constitute, or may give rise to, a conflict of interest arising from benchmark submissions and the process of gathering information in order to make benchmark submissions, and sets out the process to manage such conflicts.
Annex B

Amendments to the Fit and Proper test for Approved Persons (FIT)

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

1.2 Introduction

...

1.2.4A Under Article 5(1)(d) of the MiFID Implementing Directive and Article 31 and 32 of MiFID, the requirement to employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them is reserved to the firm’s Home State. Therefore, in assessing the fitness and propriety of a person to perform a controlled function solely in relation to the MiFID business of an incoming EEA firm, the appropriate regulator will not have regard to that person’s competence and capability. Where the controlled function relates to matters outside the scope of MiFID, for example money laundering responsibilities (see CF11) or activities related to a specified benchmark (see CF 40 and CF 50), or to business outside the scope of the MiFID business of an incoming EEA firm, for example insurance mediation activities in relation to life policies, the FSA FCA will have regard to a candidate’s competence and capability as well as his honesty, integrity, reputation and financial soundness.
**Annex C**

**Amendments to the Fees manual (FEES)**

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

### 3.2 Obligation to pay fees


<table>
<thead>
<tr>
<th>(1) Fee payer</th>
<th>(2) Fee payable</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Any applicant for <em>Part IV permission</em> (including an <em>incoming firm</em> applying for <em>top-up permission</em>) whose fee is not payable pursuant to sub-paragraph (ga) of this table</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| (g) Any applicant for recognition as a *UK recognised body*:  
(i) under section 287 of the *Act*; or  
(ii) under regulation 2(1) of the *RAP regulations* | … | … |
| (ga) Any applicant for:  
(i) a *Part 4A permission* to carry out the regulated activity of administering a specified benchmark; or  
(ii) varying its *Part 4A permission* to carry out the regulated activity of administering a specified benchmark | *FEES 3 Annex 3 R, part 1* | On or before the date the application is made |
| … | … | … |
| (p) A *firm* applying for a variation of its *Part 4A permission* whose fee is not payable pursuant to sub-paragraph (ga) of this table | … | |

3 Annex 3 R Application fees payable in connection with Recognised Investment Exchanges, and Recognised Auction Platforms and Benchmark Administrators
<table>
<thead>
<tr>
<th>Description of Applicant</th>
<th>Amount payable</th>
<th>Due date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 1 (UK recognised bodies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant for recognition as an RAP (payable in addition to any other application fee due under this part)</td>
<td>...</td>
<td>...</td>
</tr>
</tbody>
</table>
| Any applicant for:  
(i) a Part 4A permission to carry out the regulated activity of administering a specified benchmark; or  
(ii) varying its Part 4A permission to carry out the regulated activity of administering a specified benchmark | £25,000 | Date the application is made |

4 Annex 1AR

FCA Activity groups, tariff bases and valuation dates

<table>
<thead>
<tr>
<th>Activity Group</th>
<th>Fee payer falls in the activity group if</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td>B. MTF operators</td>
<td>...</td>
</tr>
<tr>
<td>B. Benchmark administrators</td>
<td>It is a benchmark administrator</td>
</tr>
</tbody>
</table>

Part 3

This table indicates the tariff base for each fee-block set out in Part 1.

<table>
<thead>
<tr>
<th>Activity Group</th>
<th>Tariff-base</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>
Part 5
This table indicates the valuation date for each fee-block. A firm can calculate its tariff data by applying the tariff bases set out in Part 3 with reference to the valuation dates shown in this table.

<table>
<thead>
<tr>
<th>Activity Group</th>
<th>Valuation date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>B. MTF operators</td>
<td>...</td>
</tr>
<tr>
<td>B. Benchmark administrators</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 31 March 2014

Part 1
This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of FEES 4 Annex 1AR

<table>
<thead>
<tr>
<th>Activity Group</th>
<th>Fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Service</td>
<td>...</td>
</tr>
<tr>
<td>companies</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>...</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Benchmark</td>
<td>£175,000</td>
</tr>
<tr>
<td>administrators</td>
<td></td>
</tr>
<tr>
<td>B. MTF operators</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>
Annex D

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, the entire text is new and is not underlined.

8 Benchmarks

8.1 Application and purpose

Application

8.1.1 R This chapter applies to every firm which is a benchmark submitter or a benchmark administrator.

Purpose

8.1.2 G The purpose of this chapter is to set out the requirements applying to firms who are benchmark submitters or benchmark administrators when carrying out the activities of providing information in relation to a specified benchmark or administering a specified benchmark.

Actions for damages

8.1.3 R A contravention of a rule in MAR 8 does not give rise to a right of action by a private person under section 138D(2) of the Act (and each rule in MAR 8 is specified under section 138D(3) of the Act as a provision giving rise to no such right of action).

8.2 Requirements for benchmark submitters

Organisational and governance arrangements

8.2.1 R A benchmark submitter must establish and maintain adequate and effective organisational and governance arrangements for the process of making benchmark submissions.

8.2.2 G These arrangements should include:

(1) appropriate oversight of the submission process by the benchmark submitter’s senior personnel;

(2) appropriate oversight of the submission process by the compliance function of the firm to ensure compliance with the benchmark submitter’s obligations under this section; and

(3) periodic internal audit reviews.
8.2.3 R A benchmark submitter who maintains an establishment in the United Kingdom must:

(1) appoint a benchmark manager with responsibility for the oversight of its compliance with this chapter; and

(2) ensure that its benchmark manager has a level of authority and access to resources and information sufficient to enable him to carry out that responsibility.

8.2.4 G The requirements in MAR 8.2.3R apply, regardless of the place from which benchmark submissions are made. The FCA expects that a benchmark manager will be based in the United Kingdom.

8.2.5 R A benchmark submitter must:

(1) ensure that its benchmark submissions are determined using an effective methodology to establish the benchmark submission on the basis of objective criteria and relevant information; and

(2) review this methodology as and when market circumstances require, but at least every quarter, to ensure that its benchmark submissions are credible and robust.

8.2.6 G An effective methodology for determining benchmark submissions in addition to quantitative criteria may include the use of qualitative criteria, such as the expert judgment of the benchmark submitter.

Conflict management

8.2.7 R A benchmark submitter must maintain and operate effective organisational and administrative arrangements to enable it to identify and manage any conflicts of interest that may arise from the process of making benchmark submissions.

8.2.8 G In order to identify and manage conflicts of interest as set out in MAR 8.2.7R a benchmark submitter should:

(1) establish, implement and maintain a conflicts of interest policy which

(a) identifies the circumstances that constitute, or may give rise to, a conflict of interest arising from its benchmark submissions or the process of gathering information in order to make benchmark submissions; and

(b) sets out the approach to managing such conflicts;

(2) establish effective controls to manage conflicts of interest between the parts of the business responsible for the benchmark submission and those parts of the business who may use, or have an interest in, the benchmark rate; and
(3) establish effective measures to prevent or limit any person from exercising inappropriate influence over the benchmark submission.

Notification of suspicions of manipulation

8.2.9 R A benchmark submitter who suspects that any person:

(1) is manipulating, or has manipulated, a specified benchmark;

(2) is attempting, or has attempted, to manipulate a specified benchmark; or

(3) is colluding, or has colluded, in the manipulation or attempted manipulation of a specified benchmark;

must notify the FCA without delay.

Record keeping

8.2.10 R A benchmark submitter must:

(1) keep for at least five years:

(a) records of its benchmark submissions, as well as all information used to enable it to make a benchmark submission; and

(b) reports on the key sensitivities the benchmark submitter may have regarding the specified benchmark it is submitting to, including (but not limited to) the benchmark submitter’s exposure to instruments which may be affected by changes in the specified benchmark;

(2) provide to the relevant benchmark administrator all information used to enable it to make a benchmark submission on a daily basis; and

(3) provide to the relevant benchmark administrator, on a quarterly basis, aggregate information which will allow the benchmark administrator to produce statistics relevant to the specified benchmark as required by MAR 8.3.12R.

8.2.11 G The information provided to the benchmark administrator in accordance with MAR 8.2.10R(2) should include:

(1) a description of the methodology used to establish the benchmark submission; and

(2) if applicable, an explanation of how any quantitative and qualitative criteria were used to establish the benchmark submission.

Auditor’s report

8.2.12 R A benchmark submitter must appoint an independent auditor to report to the
8.2.13 G (1) The FCA expects the report required under MAR 8.2.12R to be issued annually, although the FCA may agree a longer period depending on the benchmark submitter’s particular circumstances, including the nature and scale of its engagement in the specified benchmark and the internal framework for monitoring compliance with the requirements of this chapter.

(2) A benchmark submitter which proposes to appoint an auditor to report to the FCA under MAR 8.2.12R on a less frequent than annual basis should notify the FCA explaining why it believes it would be appropriate to do so.

8.3 Requirements for benchmark administrators

8.3.1 R A benchmark administrator must establish and maintain effective organisational and governance arrangements to enable it to carry out the activity of administering a specified benchmark.

8.3.2 R In discharging its duties, the benchmark administrator must have regard to the importance of maintaining integrity of the market and the continuity of the specified benchmark including the need for contractual certainty for contracts which reference the specified benchmark.

8.3.3 R A benchmark administrator must maintain and operate effective organisational and administrative arrangements to enable it to identify and manage any conflicts of interest that may arise from the process of administering a specified benchmark.

8.3.4 G The arrangements described in MAR 8.3.3R should include measures designed to ensure the confidentiality of benchmark submissions and additional information received from benchmark submitters (to the extent that such submissions and information have not been made public by mutual agreement between the benchmark administrator and benchmark submitter), for example, through confidentiality agreements for the benchmark administrator’s employees and members of the oversight committee.

8.3.5 R A benchmark administrator must:

(1) appoint a benchmark administration manager with responsibility for oversight of its compliance with this section; and

(2) ensure that its benchmark administration manager has a level of authority and access to resources and information sufficient to enable him to carry out that responsibility.

8.3.6 R A benchmark administrator must:
(1) have effective arrangements and procedures that allow the regular monitoring and surveillance of benchmark submissions:

(2) monitor the benchmark submissions in order to identify breaches of its practice standards (set out in MAR 8.3.10R(1)) and conduct that may involve manipulation, or attempted manipulation, of the specified benchmark it administers and provide to the oversight committee of the specified benchmark timely updates of suspected breaches of practice standards and attempted manipulation; and

(3) notify the FCA and provide all relevant information where it suspects that, in relation to the specified benchmark it administers, there has been:

(a) a material breach of the benchmark administrator’s practice standards (set out in MAR 8.3.10R(1));

(b) conduct that may involve manipulation or attempted manipulation of the specified benchmark it administers; or

(c) collusion to manipulate or to attempt to manipulate the specified benchmark it administers.

8.3.7 G The arrangements and procedures referred to in MAR 8.3.6R(1) should include (but not be limited to):

(1) carrying out statistical analysis of benchmark submissions, using other relevant market data in order to identify irregularities in benchmark submissions; and

(2) an effective whistle-blowing procedure which allows any person on an anonymous basis to alert the benchmark administrator of conduct that may involve manipulation, or attempted manipulation, of the specified benchmark it administers.

Oversight committee

8.3.8 R A benchmark administrator must establish an oversight committee (which must be a committee of the benchmark administrator) which includes representatives of benchmark submitters, market infrastructure providers, users of the specified benchmark and at least two independent non-executive directors of the benchmark administrator approved to carry out the non-executive director function.

8.3.9 G The oversight committee should be responsible for:

(1) considering matters of definition and scope of the specified benchmark;

(2) exercising collective scrutiny of benchmark submissions if and when required; and
(3) notifying the FCA of benchmark submitters that fail on a recurring basis to follow the practice standards (as set out in MAR 8.3.10R(1)) for the specified benchmark.

8.3.10 R The benchmark administrator through its oversight committee must:

(1) develop practice standards in a published code which set out the responsibilities for benchmark submitters, the benchmark administrator, and its oversight committee in relation to the relevant specified benchmark;

(2) undertake regular periodic reviews of:
   (a) the practice standards mentioned in MAR 8.3.10R(1);
   (b) the setting and definition of the specified benchmark it administers;
   (c) the composition of benchmark submitter panels; and
   (d) the process of making relevant benchmark submissions; and

(3) before making any changes as a result of such review:
   (a) notify the FCA;
   (b) after doing so, publish a draft of the proposed changes and a notice that representations about the proposed changes may be made to the benchmark administrator within a specified time; and
   (c) have regard to any such representations.

Review of the benchmark and publication of statistics

8.3.11 R The benchmark administrator must provide to the FCA, on a daily basis, all benchmark submissions it has received relating to the specified benchmark it administers.

8.3.12 R A benchmark administrator must publish quarterly aggregate statistics outlining the activity in the underlying market relevant to the specified benchmark.

Adequate financial resources

8.3.13 R Notwithstanding any other financial resource requirements that may apply, a firm whose permitted activities include administering a specified benchmark must:

(1) be able to meet its liabilities as they fall due; and
(2) maintain, at all times, sufficient financial resources to be able to cover the operating costs of administering the specified benchmark for a period of at least six months.

8.3.14 G MAR 8.3.13R sets out the minimum amount of financial resources a benchmark administrator must hold in order to carry out administering a specified benchmark. However, the FCA expects benchmark administrators to normally hold sufficient financial resources to cover the operating costs of administering the specified benchmark for a period of nine months.

8.3.15 G The financial resources in respect of the requirement in MAR 8.3.13R(2):

(1) can include liquid financial assets held on the balance sheet of the benchmark administrator, for example, cash and liquid financial instruments where the financial instruments have minimal market and credit risk and are capable of being liquidated with minimal adverse price effect, common stock, retained earnings, disclosed reserves and other instruments generally classified as common equity tier one capital or additional tier one capital; and

(2) should not include holdings of the benchmark administrator’s own securities or those of any undertaking in the benchmark administrator’s group; any amount owed to the benchmark administrator by an undertaking in its group under any loan or credit arrangement, and any exposure arising under any guarantee, charge or contingent liability.

8.3.16 G The FCA may use its powers under section 55L of the Act to impose on a benchmark administrator a requirement to hold additional financial resources to MAR 8.3.13R if the FCA considers it desirable to meet any of its statutory objectives.
Annex E

Amendments to the Supervision manual (SUP)

In Part 1 of this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Amendments to the new Chapter 10A of the Supervision Manual

10A.1 Application

…

Overseas firms: UK establishments

…

Territorial scope of SUP 10A in relation to benchmark submission

10A.1.22 R Notwithstanding anything to the contrary in SUP 10A.1.5R, SUP 10A.1.6 R and SUP 10A.1.13 R the application of SUP 10A to the benchmark submission function is as set out in MAR 8.2.3R.

10A.1.23 G MAR 8.2.3R says that the obligation on a benchmark submitter to appoint a benchmark manager applies if it maintains an establishment in the United Kingdom. Therefore, SUP 10A applies to the benchmark submission function whether or not the activity of providing information in relation to a specified benchmark (or any other regulated activity) or the benchmark submission function are carried on from that establishment.

…

10A.4 Specification of functions

…

10A.4.5 R FCA-controlled functions

<table>
<thead>
<tr>
<th>Type</th>
<th>CF</th>
<th>Description of FCA-controlled function</th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 10A.7 FCA-required functions

…

**Benchmark submission function** (CF40)

**10A.7.12 R** The *benchmark submission function* is the function of acting in the capacity of a *person* to whom is allocated the function set out in *MAR 8.2.3R(1)* (Organisational and governance arrangements).

**Benchmark administration function** (CF50)
The benchmark administration function is the function of acting in the capacity of a person to whom is allocated the function set out in MAR 8.3.5R(1) (Requirements for benchmark administrators).

...  

In Part 2 of this Annex, the entire text is new and is not underlined.

Part 2 Amendments to SUP TP (Transitional provisions)

TP 4  
Transitional provisions relating to SUP 10A

TP 4.1  
Transitional provisions relating to LIBOR submitters

4.1.1  
SUP TP 4.1 applies to a firm with a permission under article 7 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (Part 4A permission to carry on the activity of providing information in relation to a specified benchmark).

4.1.2  
The benchmark submission function does not apply during the first transitional period.

4.1.3  
The first transitional period is the period of two weeks beginning on 2 April 2013. However, if an application has been made to the FCA for the approval of the performance by a person of the benchmark submission function in relation to a firm, and that application is approved before the end of that two-week period, then the first transitional period ends, for that person and firm, when the application is approved.

4.1.4  
The benchmark submission function does not apply in relation to a particular person and particular firm during the second transitional period if:

(1) an application has been made to the FCA for the approval of the performance by that person of the benchmark submission function in relation to that firm during the first transitional period; and

(2) that application has not been finally decided before the end of the first transitional period.

4.1.5  
The second transitional period begins when the first transitional period ends.

4.1.6  
The second transitional period ends, in relation to a particular person and firm, on the earlier of the following dates:

(1) the end of the six month period beginning on 2 April 2013; and
(2) the date on which the application referred to in SUP TP 4.1.4R is granted.

4.1.7 R An application is finally decided for the purpose of SUP TP 4.1:

(1) when the application is withdrawn;

(2) when the FCA grants the application for approval under section 62 of the Act (applications for approval: procedure and right to refer to the Tribunal);

(3) where the FCA has refused an application and the matter is not referred to the Tribunal, when the time for referring the matter to the Tribunal has expired;

(4) where the FCA has refused an application and the matter is referred to the Tribunal, when:

(a) if the reference is determined by the Tribunal, the time for bringing an appeal has expired; or

(b) on an appeal from a determination by the Tribunal, the Court itself determines the application.

TP 4.2  Transitional provisions relating to LIBOR administration: New firm

4.2.1 R SUP TP 4.2 applies to a firm that immediately before it was granted an interim part 4A permission under article 8 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (Interim permission in relation to administering a specified benchmark) did not hold a part 4A permission.

4.2.2 R No controlled function applies during the first transitional period.

4.2.3 R The first transitional period is the period of two weeks beginning on 2 April 2013. However, if an application has been made to the FCA for the approval of the performance by a person of a controlled function in relation to the firm, and that application is approved before the end of that two-week period, then the first transitional period ends, for that person, firm and controlled function, when the application is approved.

4.2.4 R A controlled function does not apply in relation to a particular person and firm during the second transitional period if:

(1) an application has been made to the FCA for the approval of the performance by that person of that controlled function in relation to the firm during the first transitional period; and
(2) that application has not been finally decided before the end of the first transitional period.

4.2.5 R The second transitional period begins when the first transitional period ends.

4.2.6 R The second transitional period ends, in relation to a particular person and firm, on the earlier of the following dates:

(1) the end of the six-month period beginning on 2 April 2013;

(2) the date on which the application referred to in SUP TP 4.2.4R is finally decided; or

(3) the date on which the firm’s interim permission lapses as set out in Article 8(4) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013

4.2.7 R An application for approval of the performance of a controlled function is finally decided for the purpose of SUP TP 4.2 in the circumstances described in SUP TP 4.1.7R.

TP 4.3  Transitional provisions relating to LIBOR administration: Existing firm

4.3.1 R SUP TP 4.3 applies to a firm that was granted an interim Part 4A permission under article 8 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (Interim permission in relation to administering a specified benchmark) and already held a Part 4A permission.

4.3.2 R The benchmark administration function does not apply during the first transitional period.

4.3.3 R The first transitional period is the period of two weeks beginning on 2 April 2013. However, if an application has been made to the FCA for the approval of the performance by a person of the benchmark administration function in relation to the firm, and that application is approved before the end of that two-week period, then the first transitional period ends, for that person and firm, when the application is approved.

4.3.4 R The benchmark administration function does not apply in relation to a particular person and firm during the second transitional period if:

(1) an application has been made to the FCA for the approval of the performance by that person of the benchmark administration function in relation to the firm during the first transitional period; and
4.3.5 R The second transitional period begins when the first transitional period ends.

4.3.6 R The second transitional period ends, in relation to a particular person and firm, on the earlier of the following dates:

1. the end of the six-month period beginning on 2 April 2013;

2. the date on which the application referred to in SUP TP 4.3.4R is finally decided; or

3. the date on which the firm’s interim permission lapses as set out in Article 8(4) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013

4.3.7 R An application for approval of the performance of a controlled function is finally decided for the purpose of SUP TP 4.3 in the circumstances described in SUP TP 4.1.7R.
Annex F

General guidance on Benchmark Submission and Administration (BENCH)

In this Annex, the entire text is new and is not underlined. This guide should be inserted on the Handbook website after SERV.

1 Handbook requirements in relation to benchmark submission activity and benchmark administration activity

1.1 Application and purpose

Application

1.1.1 G This special guide is for firms which carry out the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark.

Purpose

1.1.2 G The purpose of this special guide is to help benchmark submitters and benchmark administrators by setting out which parts of the Handbook apply to them when they carry out the regulated activities of providing information in relation to a specified benchmark or administering a specified benchmark.

Other parts of the Handbook will apply to benchmark submitters or to benchmark administrators in respect of other regulated activities they carry out.

2 Parts of the Handbook applicable to benchmark submission activity and benchmark administration activity

2.1.1 G The parts of the Handbook applicable to benchmark submitters and to benchmark administrators when they carry out the regulated activities of providing information in relation to a specified benchmark or administering a specified benchmark are listed in BENCH 2.1.2G. Benchmark submitters and benchmark administrators should read applicable parts of the Handbook to find out what the detailed regulatory requirements are for the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark.

2.1.2 G Parts of the Handbook applicable to the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark.
<table>
<thead>
<tr>
<th>Part of the Handbook</th>
<th>Applicability to the <em>regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark</em></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High Level Standards</strong></td>
<td><strong>Principles for Businesses (PRIN)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td></td>
<td><strong>Senior management arrangements, Systems and Controls (SYSC)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td></td>
<td><strong>Threshold Conditions (COND)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td></td>
<td><strong>Statements of Principle and Code of Practice for Approved Persons (APER)</strong>&lt;br&gt;This applies to an <em>approved person</em> who performs a <em>benchmark submission function</em> or a <em>benchmark administration function</em>.</td>
</tr>
<tr>
<td></td>
<td><strong>The Fit and Proper test for Approved Persons (FIT)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td></td>
<td><strong>General Provisions (GEN)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td></td>
<td><strong>Fees Manual (FEES)</strong>&lt;br&gt;This applies.</td>
</tr>
<tr>
<td><strong>Business Standards</strong></td>
<td><strong>Market Conduct Sourcebook (MAR)</strong>&lt;br&gt;<em>MAR 1 (Code of Market Conduct), MAR 2 (Stabilisation) and MAR 8 (Benchmarks) apply.</em></td>
</tr>
<tr>
<td><strong>Regulatory processes</strong></td>
<td><strong>Supervision manual (SUP)</strong>&lt;br&gt;This applies, with the following qualifications:&lt;br&gt;(a) <em>SUP 4 (Actuaries), SUP 12 (Appointed representatives), SUP 13 (Exercise of passport rights by UK firms), SUP 13A (Qualifying for authorisation under the Act), SUP 14 (incoming EEA firms changing details and cancelling qualification for authorisation), SUP 17 (Transaction Reporting), SUP 18 (Transfer of business), SUP 21 (Waiver), SUP App 2 (Insurers: Regulatory intervention points and run-off plans) and SUP App 3 (Guidance on passporting issues) will not be relevant to the regulated activities of providing information in relation to a specified.</em></td>
</tr>
<tr>
<td>Decision Procedure and Penalties Manual (DEPP)</td>
<td>This applies.</td>
</tr>
<tr>
<td>Redress</td>
<td>Dispute Resolution: the Complaints sourcebook (DISP)</td>
</tr>
<tr>
<td></td>
<td>All firms are subject to the Compulsory Jurisdiction of the Financial Ombudsman Service. However, a firm which does not, and notifies the FCA under DISP 1.1.12R that it does not, conduct business with eligible complainants (persons eligible to have a complaint considered by the Financial Ombudsman Service, as defined in DISP 2.7) will be exempt from the rules on treating complaints fairly (DISP 1.2 to DISP 1.11) and from the Financial Ombudsman Funding rules (FEES 5.1 to FEES 5.7). The definition of the regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark mean that benchmark submitters and benchmark administrators will qualify for these exemptions if it applies for them.</td>
</tr>
<tr>
<td>Handbook Guides</td>
<td>Special Guide for benchmark administrators (BENCH)</td>
</tr>
<tr>
<td></td>
<td>This applies.</td>
</tr>
<tr>
<td>Regulatory Guides</td>
<td>The Enforcement Guide (EG)</td>
</tr>
<tr>
<td></td>
<td>This applies.</td>
</tr>
<tr>
<td>The Perimeter Guidance Manual (PERG)</td>
<td>This applies.</td>
</tr>
<tr>
<td>Glossary of definitions</td>
<td>This applies.</td>
</tr>
</tbody>
</table>
Annex G

Amendments to the Perimeter Guidance Manual (PERG)

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

2.2.3  G  Any person who is concerned that his proposed activities may require authorisation will need to consider the following questions (these questions are a summary of the issues to be considered and have been reproduced, in slightly fuller form in the decision tree in PERG 2 Annex 1G):

... 

(3) ... 

(3a) Are my activities related to a specified benchmark?

(4) If so the answer is ‘Yes’ to (3) or (3a), will my activities be, or include, regulated activities (see PERG 2.7)?

...

2.3.4  G  A person carrying out the activity of administering a specified benchmark or providing information in relation to a specified benchmark will always be carrying out these activities by way of business.

...

2.4.8  G  For the avoidance of doubt, a person who is based outside of the United Kingdom but who makes benchmark submissions to a benchmark administrator is carrying out regulated activities in the United Kingdom.

...

2.5.1A  G  The regulated activities of providing information in relation to a specified benchmark and administering a specified benchmark do not require the involvement of a specified investment in any way.

...

Specified benchmarks activities

2.7.20D  G  There are two regulated activities associated with specified benchmarks

(1) providing information in relation to a specified benchmark; and

(2) administering a specified benchmark

2.7.20E  G  A person will be providing information in relation to a specified benchmark where information or an expression of opinion necessary to determine a
specified benchmark is provided to, or for the purposes of passing to, a benchmark administrator so he can administer a specified benchmark.

2.7.20F G We expect that only firms which are members of a benchmark submission panel will carry out the activity of providing information in relation to a specified benchmark.

2.7.20G G A person is not providing information in relation to a specified benchmark where the information he is providing:

(1) consists solely of factual data obtained from a publicly available source; or

(2) is compiled by a subscription service for purposes other than in connection with the determination of a specified benchmark and is provided to a benchmark administrator only in the administrator’s capacity as a subscriber to the service.

2.7.20H G The activity of administering a specified benchmark comprises:

(1) administering the arrangements for determining the benchmark;

(2) collecting, analysing or processing information or expressions of opinion provided for the purpose of determining a specified benchmark; or

(3) determining a specified benchmark through the application of a formula or other method of calculation to the information or expressions of opinion provided for that purpose.

2.7.20I G For the avoidance of doubt, a firm who is a benchmark submitter is not expected to be carrying out the activities mentioned in PERG 2.7.20HG(2) if it collects, analyses or processes information or expressions of opinion for the purposes of making its own submissions.

2.7.20J G Specified benchmarks are listed in Schedule 5 to the Regulated Activities Order; currently the only specified benchmark is the London Interbank Offered Rate (LIBOR).

…

2Annex Authorisation and regulated activities
1G

1 G Do you need authorisation?
Will you be carrying on any activities by way of business?

Yes

Consult the Business Order

No

Are you, or will you be, involved with specified investments of any kind or establishing etc a CIS or stakeholder pension scheme?

Yes

Consult Part III of the RAO

No

Are your activities related to a specified benchmark?

Yes

Consult article 630 of the RAO

No

Are you, or will you be, carrying on a regulated activity?

Yes

Consult Part III of the RAO

No

Are you, or will you be, carrying on a regulated activity in the United Kingdom?

Yes

Consult section 418 of the Act

No

Are your activities excluded in full under the RAO?

No

Consult Part II of the RAO and, if an investment firm, article 4 of the RAO

Yes

Do you conduct regulated activities only as a members or former underwriting members of Lloyd's?

No

Consult Part XIX of the Act

Yes

Are you a member of the professions whose activities are exempt under Part XX of the Act?

No

Consult Part XX of the Act and the Non-Exempt Activities Order and Part XIX of the Act

Yes

Are you an exempt person under section 38 or 39 of the Act?

No

Consult the Exemption Order and the Appointed Representatives Regulations.

Yes

Will you be managing the assets of an ODS (e.g. as a trustee)?

No

Consult the Business Order

Yes

Will you be delegating decisions or be a trustee of a qualifying SSAS as provided for in the Business Order?

No

Consult the Business Order

Yes

Are you an EEA firm, a Treaty firm or a UCITS qualifier in relation to the regulated activity?

No

Consult the Business Order

Yes

Contact the Home State regulator, and the FSA, to obtain authorisation under Schedule 3, 4 or 5 of the Act (see PEPG 5)

Apply for Part IV permission from the FSA under Part 4A of the Act.

Obtain exemption under the Act as an appointed representative (section 39) or recognised investment exchange or recognised clearing house (Part XVIII).

Authorisation not required