

Chapter 2

Commission Delegated Regulation (EU) 2016/2021

Article 5 Standards guiding how a benchmark may be proven to be new

(1) When establishing whether a new benchmark meets the criteria set out in points (a) and (b) of Article 37(2) of Regulation (EU) No 600/2014, a person with proprietary rights to a benchmark shall take the following standards into account:

(a) whether contracts based on the more recent benchmark are not capable of being netted nor substantially offset with contracts based on the relevant existing benchmark by a CCP;

(b) whether the regions and industry sectors covered by the relevant benchmarks are not the same, nor similar;

(c) whether the values of the relevant benchmarks are not highly correlated;

(d) whether composition of the relevant benchmarks, having regard to the number of constituents, the actual constituents, their values and their weightings are not the same, nor similar;

(e) whether the methodologies of each relevant benchmark are not the same, nor similar.

(2) For commodity benchmarks, in addition to the standards specified in paragraph 1, the following additional standards shall be taken into account:

(a) whether the relevant benchmarks are not based on the same underlying commodities;

(b) whether the delivery locations of the underlying commodities are not the same.

(3) In addition to the standards specified in paragraphs 1 and 2, a person with proprietary rights to a benchmark shall take into account further standards in use specific to the types of benchmarks being assessed, as appropriate.

(4) A newly released series of a benchmark shall not constitute a new benchmark.