

## Chapter 15B

Applications and notifications  
under the benchmarks  
regulation and powers over  
Miscellaneous BM persons

 15B.1 Application

15B.1.1

**G**

This chapter applies to:

- (1) every *firm*;
- (2) every *supervised entity* which applies to the *FCA* to endorse a *benchmark* in accordance with article 33 of the *benchmarks regulation*;
- (3) every *person* who applies to the *FCA* for recognition in accordance with article 32 of the *benchmarks regulation*.



## 15B.2 Notifications under the benchmarks regulation

- 15B.2.1** G
- (1) The *benchmarks regulation* imposes various directly applicable obligations for *regulated benchmark administrators* to provide notifications to the *FCA*.
  - (2) Those notifications should be made:
    - (a) in accordance with the requirements of the *benchmarks regulation*; and
    - (b) in such manner as the *FCA* directs.
- 15B.2.2** D
- (1) A *firm* making a notification under the *benchmarks regulation* must do so using the system or form indicated on the *FCA's* website for the relevant type of notification.
  - (2) Where the *FCA* has not specified a method for making the relevant notification on its website, the notification should be made in accordance with ■ SUP 15.7.4R.



## 15B.3 Applications to endorse a third country benchmark

### 15B.3.1 G

Article 33 of the *benchmarks regulation* provides that a *supervised entity* may apply to the *FCA* to endorse a benchmark or a family of benchmarks provided in a *third country* for their use in the *EU*.

The *FCA* has made the endorsement application form by direction. The form is available on the *FCA's* website.

A *supervised entity* making an endorsement application will also need to pay any applicable fee set out in *FEES*.



## **15B.4 Applications for recognition of third country administrators**

### **15B.4.1**

**G**

Article 32 of the *benchmarks regulation* provides that a benchmark administrator *located* in a *third country* may apply to a *competent authority* for prior recognition.

The *FCA* has made the recognition application form by direction. The form is available on the *FCA's* website.

A *person* applying for recognition will also need to pay any applicable fee set out in *FEES*.

## 15B.5 Powers over Miscellaneous BM persons

- 15B.5.1 G
- (1) Regulation 6 of the *UK Benchmarks Regulations 2018* enables the *FCA* to impose a requirement on a Miscellaneous BM person and to vary or cancel such a requirement.
  - (2) Miscellaneous BM person is defined in regulation 5(2) of the *UK Benchmarks Regulations 2018* as a person who is not an authorised person and is:
    - (a) involved in the provision of, or contribution of input data to, a benchmark;
    - (b) a service provider to whom functions or any relevant services and activities in the provision of a benchmark have been outsourced;
    - (c) a person who is not the service provider but who is or has been party to a contract in relation to the outsourcing of functions or any relevant services and activities in the provision of a benchmark;
    - (d) a legal representative of a benchmark administrator *located* in a third country which has obtained or has applied for prior recognition as referred to in article 32(1) and as provided for in article 32(3) of the *benchmarks regulation*;
    - (e) a person who administers a benchmark relying on article 51(4) of the *benchmarks regulation*; or
    - (f) a *supervised entity*.
  - (3) A *person* cannot fall within the definition of Miscellaneous BM person if that *person* is an *authorised person*.

- 15B.5.2 G
- Regulation 6(1) of the *UK Benchmarks Regulations 2018* provides that the power to impose, vary or cancel requirements in relation to Miscellaneous BM persons is exercisable if it appears to the *FCA* that:
- (a) the Miscellaneous BM person has contravened or is likely to contravene a relevant requirement;
  - (b) it is desirable for the *FCA* to exercise its powers in order to advance any of its operational objectives; or
  - (c) it is desirable for the *FCA* to exercise its powers to facilitate the performance of its functions under the *benchmarks regulation*.

Regulation 6(1)(b) of the *UK Benchmarks Regulations 2018* would enable the *FCA* to impose a requirement on a Miscellaneous BM

person where it is desirable for the *FCA* to do so in order to advance any of the *FCA*'s operational objectives.

**15B.5.3**

**G**

- (1) The *FCA* anticipates that it would generally only need to rely on the ground in regulation 6(1)(b) of the *UK Benchmarks Regulations 2018* for the purpose of supervising a Miscellaneous BM person listed in regulation 5(2)(e) of those regulations i.e. a *person who administers a benchmark* relying on article 51(4) of the *benchmarks regulation*.
- (2) That is because the *persons* listed in regulation 5(2)(e) will not necessarily be subject to the requirements of the *benchmarks regulation* or the *Act* and may therefore fall outside the scope of the other two grounds in regulation 6(1) of the *UK Benchmarks Regulations 2018* and outside the scope of the *FCA*'s powers under the *Act*.
- (3) In view of (2), the *FCA* does not generally expect that it will need to rely on the ground in regulation 6(1)(b) of the *UK Benchmarks Regulations 2018* in relation to the other categories of Miscellaneous BM person (listed in regulation 5(2)(a)-(d) and (f) of the *UK Benchmarks Regulations 2018*). However, the *FCA* cannot entirely exclude the possibility that it might need to do so in other circumstances and the *FCA* will consider any proposed use of the power on its merits on a case by case basis.

