

## STATUTORY INSTRUMENTS

# 2018 No. 135

## The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018

### PART 2

#### FCA powers over Miscellaneous BM persons

##### Exercise of power in support of overseas regulator

**8.—(1)** The FCA's own-initiative requirement powers may be exercised in respect of a Miscellaneous BM person at the request of, or for the purpose of, assisting an overseas regulator.

(2) If a request to the FCA for the exercise of its own-initiative requirement powers has been made by an overseas regulator, the FCA must, in deciding whether or not to exercise those powers in response to the request, consider whether it is necessary to do so in order to comply with [<sup>F1</sup>a retained EU obligation].

(3) In deciding whether or not to do so, in any case in which the FCA does not consider that the exercise of its own-initiative requirement powers is necessary in order to comply with [<sup>F2</sup>a retained EU obligation], it may take into account in particular—

- (a) whether in the country or territory of the overseas regulator concerned, corresponding assistance would be given to a United Kingdom regulatory authority;
- (b) whether the case concerns the breach of a law, or other requirement, which has no close parallel in the United Kingdom or involves the assertion of a jurisdiction not recognised by the United Kingdom;
- (c) the seriousness of the case and its importance to persons in the United Kingdom;
- (d) whether it is otherwise appropriate in the public interest to give the assistance sought.

(a) (4) (a) The FCA may decide not to exercise its own-initiative requirement powers in response to a request unless the overseas regulator concerned undertakes to make such contribution towards the cost of their exercise as the FCA considers appropriate.

(b) in subparagraph (a) “request” means a request of a kind mentioned in paragraph (1).

(5) Paragraph (4) does not apply if the FCA decides that it is necessary for it to exercise its own-initiative requirement powers in order to comply with [<sup>F3</sup>a retained EU obligation].

##### Textual Amendments

- F1** Words in reg. 8(2) substituted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(3), **12(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in reg. 8(3) substituted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(3), **12(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in reg. 8(5) substituted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(3), **12(6)**; 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018, Section 8.