

Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Text with EEA relevance)

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 2

Scope

- 1 This Regulation applies to the provision of benchmarks, the contribution of input data to a benchmark and the use of a benchmark within the [F1United Kingdom].
- 2 This Regulation shall not apply to:
 - a a central bank;
 - b a public authority, where it contributes data to, provides, or has control over the provision of, benchmarks for public policy purposes, including measures of employment, economic activity, and inflation;
 - c a central counterparty (CCP) [F2as defined in Article 2(1) of Regulation (EU) No 648/2012 of 4 July 2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories as it forms part of retained EU law], where it provides reference prices or settlement prices used for CCP risk-management purposes and settlement;
 - d the provision of a single reference price for any financial instrument [F3specified in Part 1 of Schedule 2 to the Regulated Activities Order];
 - e the press, other media and journalists where they merely publish or refer to a benchmark as part of their journalistic activities with no control over the provision of that benchmark;
 - f a natural or legal person that grants or promises to grant credit in the course of that person's trade, business or profession, only insofar as that person publishes or makes available to the public that person's own variable or fixed borrowing rates set by internal decisions and applicable only to financial contracts entered into by that person or by a company within the same group with their respective clients;
 - g a commodity benchmark based on submissions from contributors the majority of which are non-supervised entities and in respect of which both of the following conditions apply:
 - (i) the benchmark is referenced by financial instruments for which a request for admission to trading has been made on only one [F4UK trading venue] or which are traded on only one such trading venue;
 - (ii) the total notional value of financial instruments referencing the benchmark does not exceed EUR 100 million;

Changes to legislation: Regulation (EU) 2016/1011 of the European Parliament and of the Council, Article 2 is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- h an index provider in respect of an index provided by said provider where that index provider is unaware and could not reasonably have been aware that that index is used for the purposes referred to in point (3) of Article 3(1).

[^{F53} Paragraphs 1 and 2 do not limit the application of Articles 23FA to 23FC.]

Textual Amendments

- F1** Words in Art. 2(1) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/657\)](#), regs. 1(2), **4(a)** (with regs. 51-53, 65) (as amended by [S.I. 2019/1212](#), regs. 1(3), 20(3)(4) and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 2(2)(c) inserted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/657\)](#), regs. 1(2), **4(b)(i)** (with regs. 51-53, 65) (as amended by [S.I. 2019/1212](#), regs. 1(3), 20(3)(4); [S.I. 2020/646](#), regs. 1(2)(c), 9; [S.I. 2020/1385](#), regs. 1(4), 58(3); and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 2(2)(d) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/657\)](#), regs. 1(2), **4(b)(ii)** (with regs. 51-53, 65) (as amended by [S.I. 2019/1212](#), regs. 1(3), 20(3)(4) and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 2(2)(g)(i) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/657\)](#), regs. 1(2), **4(b)(iii)** (with regs. 51-53, 65) (as amended by [S.I. 2019/1212](#), regs. 1(3), 20(3)(4) and with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 2(3) inserted (15.12.2021) by [Critical Benchmarks \(References and Administrators' Liability\) Act 2021 \(c. 33\)](#), **ss. 3(1)**, 4(3)

Changes to legislation:

Regulation (EU) 2016/1011 of the European Parliament and of the Council, Article 2 is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Title 6Ch. 4 addition by [EUR 2019/2175](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 3.1(24) words omitted by [S.I. 2019/657 reg. 5\(10\)\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(10)(f) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 58(4))
- Art. 51(1B)(a)(ii) words substituted in earlier amending provision S.I. 2019/657, reg. 42(2) by [S.I. 2019/1212 reg. 20\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 20(2) omitted (30.6.2020) by virtue of S.I. 2020/628, regs. 1(4), 16)
- Art. 51(2)(b) word substituted by [S.I. 2019/657 reg. 42\(3\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 42(3) substituted immediately before IP completion day by S.I. 2020/628, regs. 1(3), 12(6)(b))
- Art. 51(2)(b) words substituted by [S.I. 2019/657 reg. 42\(3\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 42(3) substituted immediately before IP completion day by S.I. 2020/628, regs. 1(3), 12(6)(b))