

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 VI

### AUTHORISATION, REGISTRATION AND SUPERVISION OF ADMINISTRATORS

#### CHAPTER I

##### *Authorisation and registration*

##### *Article 35*

##### **Withdrawal or suspension of authorisation or registration**

1 [F<sup>1</sup>The FCA] may withdraw or suspend the authorisation or registration of an administrator where the administrator:

- a expressly renounces the authorisation or registration or has provided no benchmarks for the preceding 12 months;
- b has obtained the authorisation or registration, or has endorsed a benchmark, by making false statements or by any other irregular means;
- c no longer meets the conditions under which it was authorised or registered; or
- d has seriously or repeatedly infringed the provisions of this Regulation.

2 [F<sup>2</sup> ...

[F<sup>3</sup>The FCA] shall promptly update the [F<sup>4</sup>FCA register].

3 Following the adoption of a decision to suspend the authorisation or registration of an administrator, and where cessation of the benchmark would result in a force majeure event, or frustrate or otherwise breach the terms of any financial contract or financial instrument, or the rules of any investment fund, which references that benchmark, as specified in the [F<sup>5</sup>2018 Delegated Regulation or regulations made by the Treasury] pursuant to Article 51(6), the provision of the benchmark in question may be permitted by the [F<sup>6</sup>FCA] until the decision of suspension has been withdrawn. During that period of time, the use of such benchmark by supervised entities shall be permitted only for financial contracts, financial instruments and investment funds that already reference the benchmark.

4 Following the adoption of a decision to withdraw the authorisation or registration of an administrator, Article 28(2) shall apply.

[F<sup>7</sup>5 In paragraph 3, the “2018 Delegated Regulation” means Commission Delegated Regulation (EU) 2018/67 of 3 October 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to the establishment of the conditions to assess the impact resulting from the cessation of or change to existing benchmarks.]

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**Changes to legislation:** Regulation (EU) 2016/1011 of the European Parliament and of the Council, Article 35 is up to date with all changes known to be in force on or before 22 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

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### Textual Amendments

- F1** Words in Art. 35(1) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(2)** (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. 35(2) omitted (31.12.2020) by virtue of [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(3)(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)
- F3** Words in Art. 35(2) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(3)(b)(i)** (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. 35(2) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(3)(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)
- F5** Words in Art. 35(3) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(4)(i)** (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)
- F6** Word in Art. 35(3) substituted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(4)(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)
- F7** Art. 35(5) inserted (31.12.2020) by [The Benchmarks \(Amendment and Transitional Provision\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/657), regs. 1(2), **32(5)** (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)

**Changes to legislation:**

Regulation (EU) 2016/1011 of the European Parliament and of the Council, Article 35 is up to date with all changes known to be in force on or before 22 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.

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**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))