
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Benchmarks (Amendment and Transitional Provision) (EU Exit) Regulations 2019

PART 2

Amendment of EU Regulations

CHAPTER 2

Amendment of other EU Regulations

Amendment of Commission Implementing Regulation (EU) 2016/1368

46.—(1) Commission Implementing Regulation (EU) 2016/1368 of 11 August 2016 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council is amended as follows.

(2) Omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.” after Article 2.

(3) In the Annex (list of critical benchmarks pursuant to Article 20(1) of Regulation (EU) 2016/1011), for the table substitute “London Interbank Offered Rate (LIBOR), administered by the ICE Benchmark Administration (IBA), London, United Kingdom”.

Amendment of Commission Delegated Regulation (EU) 2018/64

47.—(1) Commission Delegated Regulation (EU) 2018/64 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to specifying how the criteria of Article 20(1)(c)(iii) are to be applied for assessing whether certain events would result in significant and adverse impacts on market integrity, financial stability, consumers, the real economy or the financing of households and businesses in one or more Member States is amended as follows.

(2) In Article 1 (assessment by competent authorities)—

(a) in the heading, for “competent authorities” substitute “the FCA”;

(b) in the first paragraph—

(i) for “Competent authorities” substitute “The FCA”;

(ii) for “one or more Member States” substitute “the United Kingdom”;

(c) omit paragraph 2.

(3) In Article 2 (significant and adverse impact on market integrity)—

(a) in the opening words, for “Competent authorities” substitute “The FCA”;

(b) in point (a)—

(i) for “Member States in question” substitute “United Kingdom”;

- (ii) for “those Member States” substitute “the United Kingdom”;
- (c) in point (b)—
 - (i) for “Member States in question” substitute “United Kingdom”;
 - (ii) for “Member States considered” substitute “United Kingdom”;
- (d) in point (c)—
 - (i) for “Member States considered” substitute “United Kingdom”;
 - (ii) for “those Member States” substitute “the United Kingdom”.
- (4) In Article 3 (significant and adverse impact on financial stability)—
 - (a) in the opening words, for “Competent authorities” substitute “The FCA”;
 - (b) in point (a)—
 - (i) in the opening words, for “Member States in question” substitute “United Kingdom”;
 - (ii) in points (i) and (ii) for “those Member States” substitute “the United Kingdom”.
- (5) In Article 4 (significant and adverse impact on consumers)—
 - (a) in the opening words, for “Competent authorities” substitute “The FCA”;
 - (b) in point (a), in points (i) and (ii)—
 - (i) for “Member States in question” substitute “United Kingdom”;
 - (ii) for “those Member States” substitute “the United Kingdom”;
 - (c) in point (b)—
 - (i) in points (i) and (ii)—
 - (aa) for “Member States in question” substitute “United Kingdom”;
 - (bb) for “those Member States” substitute “the United Kingdom”;
 - (ii) in point (iii), for “Member States” substitute “United Kingdom”;
 - (d) in point (c)—
 - (i) in points (i) and (ii), for “those Member States” substitute “the United Kingdom”;
 - (ii) in points (i), (ii) and (iii), for “Member States in question” substitute “United Kingdom”.
- (6) In Article 5 (significant and adverse impact on the real economy)—
 - (a) for “Competent authorities” substitute “The FCA”;
 - (b) for “Member States in question” substitute “United Kingdom”;
 - (c) for “those Member States” substitute “the United Kingdom”.
- (7) In Article 6 (significant and adverse impact on the financing of households and businesses)—
 - (a) for “Competent authorities” substitute “The FCA”;
 - (b) for “one or more Member States” substitute “the United Kingdom”;
 - (c) for “Member States in question”, each time it occurs, substitute “United Kingdom”;
 - (d) for “those Member States”, each time it occurs, substitute “the United Kingdom”.
- (8) Omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.” after Article 7.

Amendment of Commission Delegated Regulation (EU) 2018/65

48. In Commission Delegated Regulation (EU) 2018/65 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying technical elements of the definitions laid down in paragraph 1 of Article 3 of the Regulation, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.” after Article 3.

Amendment of Commission Delegated Regulation (EU) 2018/66

49.—(1) Commission Delegated Regulation (EU) 2018/66 of 29 September 2017 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council specifying how the nominal amount of financial instruments other than derivatives, the notional amount of derivatives and the net asset value of investment funds are to be assessed is amended as follows.

(2) In Article 3 (net asset value of collective investment undertakings)—

(a) in paragraph (a)—

(i) for the words from “subject” to “Council” substitute “that are UKUCITS (as defined in section 237(3) of the Financial Services and Markets Act 2000)”⁽¹⁾;

(ii) for “Article 68(2) of that Directive” substitute “section 4.5 of the Collective Investment Schemes sourcebook in the Handbook of Rules and Guidance published by the Financial Conduct Authority under the Financial Services and Markets Act 2000 as it has effect on exit day”⁽²⁾;

(b) in paragraph (b), for the words from “subject” to “Council” substitute “that are AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulations 2013)”⁽³⁾.

(3) In Article 4 (use of alternative amounts and values)—

(a) for “the competent authority” substitute “the FCA”;

(b) for “that competent authority” substitute “the FCA”.

(4) Omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.” after Article 7.

Amendment of Commission Delegated Regulation (EU) 2018/67

50.—(1) 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 is amended as follows.

(2) In Article 1, in the opening words, for “A competent authority” substitute “The FCA”.

(3) Omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States.” after Article 2.

(1) 2000 c. 16. The definition of “UK UCITS” was inserted by S.I. 2011/1613 and amended by S.I. 2013/1388.

(2) The Handbook of Rules and Guidance published by the Financial Conduct Authority is available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

(3) S.I. 2013/1773.