

2021 No. 812

FINANCIAL SERVICES AND MARKETS

**The Benchmarks (Provision of Information and Documents)
Regulations 2021**

<i>Made</i> - - - -	<i>7th July 2021</i>
<i>Laid before Parliament</i>	<i>9th July 2021</i>
<i>Coming into force</i> - -	<i>9th August 2021</i>

The Treasury make the following Regulations in exercise of the powers conferred by Articles 48A and 49(2) of 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^(a).

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Benchmarks (Provision of Information and Documents) Regulations 2021 and come into force on 9th August 2021.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“the Benchmarks Regulation” means 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;

“the FCA” means the Financial Conduct Authority.

Transitional provision

3. Part 2 of these Regulations applies for the purposes of a benchmark specified as critical by regulations—

(a) made under—

(i) paragraph 5 or 6 of Article A20 of the Benchmarks Regulation, or

(ii) paragraph 5 of Article 20 of that Regulation, and

(a) EUR 2016/1011. Article 48A is inserted by paragraph 11 of Schedule 5 to the Financial Services Act 2021 (c. 22).

(b) which come into force before the day on which these Regulations come into force, as if the day referred to in regulation 5(2)(a) were a reference to the day on which these Regulations come into force.

PART 2

Provision of information and documents – critical benchmarks

Application of Part

4. This Part applies for the purposes of—
- (a) in Article 22A of the Benchmarks Regulation (assessment of representativeness of critical benchmarks: administrator)(a)—
 - (i) a notice given by the FCA to an administrator under paragraph 3 or 11;
 - (ii) a permission given by the FCA to an administrator under paragraph 9;
 - (b) in Article 22B of that Regulation (assessment of representativeness of critical benchmarks: FCA)(b), a notice given by the FCA to an administrator under paragraph 3;
 - (c) in Article 23A of that Regulation (designation of certain critical benchmarks)(c), a notice given by the FCA to an administrator under paragraph 1(b), 4, 7 or 9;
 - (d) in Article 23D of that Regulation (orderly cessation of Article 23A benchmarks)(d), a notice given by the FCA to an administrator under paragraph 2 or 8(b).

Provision of an address to which information or a document may be sent electronically

- 5.—(1) An administrator of a critical benchmark—
- (a) must provide the FCA with an email address to which a notice or permission to which this Part applies may be sent;
 - (b) may provide the FCA with an address (other than an email address) to which such a notice or permission may, with the written agreement of the FCA, be sent electronically.
- (2) An address provided in accordance with paragraph (1) must be provided within five working days beginning with the day on which regulations specifying the benchmark as critical under—
- (a) paragraph 5 or 6 of Article A20 of the Benchmarks Regulation, or
 - (b) paragraph 5 of Article 20 of that Regulation,
- come into force.
- (3) The administrator may provide a different address in substitution for one provided in accordance with paragraph (1).
- (4) An address provided under paragraph (3) must be provided no less than five working days before the day on which the administrator intends the substitution to take effect.
- (5) The conditions in paragraph (1) apply in respect of such an address as they apply to an address provided in accordance with that paragraph.

Date on which information or a document is treated as having been received

6. A notice or permission sent by the FCA to an administrator at an address provided in accordance with regulation 5 shall be deemed to have been received—

(a) Article 22A is inserted by section 11(2) of the Financial Services Act 2021 (c. 22).
(b) Article 22B is inserted by section 11(2) of the Financial Services Act 2021 (c. 22).
(c) Article 23A is inserted by section 13 of the Financial Services Act 2021 (c. 22).
(d) Article 23D is inserted by section 15 of the Financial Services Act 2021 (c. 22).

- (a) in respect of a notice or permission referred to in regulation 4(a) to (c)—
 - (i) if sent on a working day before 5 p.m., on that day;
 - (ii) otherwise, on the following working day;
- (b) in respect of a notice referred to in regulation 4(d)—
 - (i) if sent before 5 p.m., on the day on which it is sent;
 - (ii) otherwise, on the following day.

*Alan Mak
David Rutley*

7th July 2021

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of a notice or permission given by the Financial Conduct Authority to a benchmark administrator under Articles 22A, 22B, 23A and 23D of 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.

In these Regulations:

- regulation 5 imposes an obligation on the administrator of a critical benchmark to provide an address to which the Financial Conduct Authority may send a notice or permission electronically;
- regulation 6 makes provision for when a notice or permission sent in such a manner is deemed to have been received.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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