

WMBA Limited and LEBA Limited response to FCA CP 17/17:
Q3 & Q4 on Draft Benchmark Application Forms

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Response to FCA Consultation paper CP17/17 - Handbook changes to reflect the application of the EU Benchmarks Regulation

As per FCA request, this consultation response is solely for questions 3 and 4 on draft application forms with deadline closing on 6 August 2017.

WMBA/LEBA intend to respond to the remaining questions of CP17/17 in full by 22 August 2017.

Q3 Do you have any comments on the draft benchmarks application forms?

YES - WMBA Limited/LEBA Limited (the “Administrators”) generally agree with the content of the application forms and do not feel that they are overly onerous on firms who are applying to be a regulated entity for the purpose of administering a benchmark. We support the proportional approach for firms who administer non-significant benchmarks and therefore applying for registration to provide a summary of the necessary documents that set out the overall control framework for non-significant benchmarks.

The Administrators do however have the following comments:

- 1) Grammatical amendments to the Registration form
 - o Page 8, section 2.4, line 4 – ‘provision of ta benchmark have the necessary sills’ amended to ‘provision of the benchmark have the necessary skills’
 - o Page 17, section 4.3 second paragraph- ‘for applicants who are not administering a non-significant benchmark only’ amended to ‘for applicants who are only administering a non-significant benchmark’

2) Content of the Registration/Authorisation forms – Existing regulated benchmark administrators

WMBA Limited has been an authorised and regulated Benchmark Administrator since April 2015. We strongly request the FCA take a pragmatic approach when receiving Registration/Authorisation documentation from existing benchmark administrators. Whilst we understand there is no grandfathering in of current administrators, sections 2-8 of both registration and authorisation forms should be limited only to the information that was not provided as part of the authorisation process to avoid unnecessary duplication of the information required and to simplify the application process for firms who are already authorised.

For example, the registration application form on page 10 section 2.9 requests form A’s to be completed by individuals holding control functions. The FCA register already contains the names of the individuals and there has been no change in their position to date, so we recommend completion of form A to only apply to newly appointed control functions that are not already registered on the FCA register.

WMBA Limited also note that throughout the application and existing authorisation, it has provided monthly and ad-hoc updates to the FCA with regards to documentation on process and organisational/governance

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structures including financial forecasts and statements.

3) Structure of the application forms

The Administrators believe the application forms for both authorisation and registration should be structured differently. Sections 1-4 of both forms cover the details about the firm applying to be regulated. Whilst this should remain standard, the remaining sections which provide the bulk of the information regarding the benchmarks could be more streamlined if they became addenda to the application. For example, should a firm be applying to administer a critical benchmark, details should be provided as standalone to other non-significant benchmarks that it administers. As an example, the data collection and monitoring could be vastly different for different benchmarks and the form in its current format doesn't lend itself to this distinction by asking for details about 'all benchmarks' in one go.

4) Transition, Entity v Benchmarks

Following on from Point 3 above, and replicating industry standard practice for Data Supply Agreements, the application form should be structured with addenda per benchmark to facilitate an administrator to make its application to cover multiple benchmarks, and indeed aspirant indices.

On application for registration/authorisation, it is unclear exactly what a firm would be applying for in the first instance. For example, where a firm is administering a critical benchmark, both the administrator and the regulator would want the application submitted as soon as possible for that particular benchmark. However, if that entity/administrator was also administering other benchmarks (regardless of classification), the application forms currently request a firm to submit details of all benchmarks on submission of the application even though they may not have sufficient governance arrangements for administering the other benchmarks to the standards identified in the regulation at this time. Had that firm not been administering a critical benchmark and therefore not required to seek early authorisation, they would have 2 years to submit an application for the other benchmarks when they had the structure in place and so it would seem that those administrators with critical benchmarks will be at a disadvantage as they will need to provide details of all benchmarks administered by that entity when the application is submitted early on for the critical benchmark. This could prove difficult or costly to get in place at the very early stage of the application window.

This scenario could indeed discourage an administrator of multiple non-critical benchmarks to delay its application until it could state compliance for all of its benchmarks. Whilst this may be beneficial from a regulatory viewpoint to avoid too many early applications, it would appear to go against the purpose of the regulation to allow users to access benchmarks that have been deemed by the administrator as compliant with the regulation.

The Administrators request the ability for the administrator to specifically determine on application which benchmarks it is applying for at that time rather than be expected to supply details of "all benchmarks that it administers or intends to administer". This will allow administrators to transition in benchmarks in a pragmatic manner as and when they are deemed compliant with the regulation.

Q4 Do you have any comments on the changes we propose to make to Form A and Form E?

YES - The changes appear to reflect the intention of removing the CF40 and CF50 and adding the 'Significant management function' (CF29) to the scope of regulated benchmark administration.