

Senior Managers Regime - Consultation Response to the FCA (CP19/31)

MSCI LIMITED

February 2020

Response

- 1 Q1: Do you agree with our assessment that benchmark administrators are unlikely to meet the criteria for Enhanced firms under the regime?**

Yes.
- 2 Q2: Do you agree that all benchmark administrators should be subject to the Core regime under the SMR in the first instance? If not, please explain why.**

Yes.
- 3 Q3: Do you agree that our waiver-based approach allows enough flexibility for benchmark administrators with different governance models? If not, please explain why.**

Any waiver-based approach should not in our view create an unlevel playing field between role-players, such as independent index providers and self-indexers within a larger organisations. In our view, the same regime should apply to all competitors.
- 4 Q4: What are your views on our stated approach to assessing waiver applications? Are there factors we should exclude or other factors we should include?**

Any waiver-based approach should not in our view create an unlevel playing field between role-players, such as independent index providers and self-indexers within a larger organisations. In our view, the same regime should apply to all competitors.
- 5 Q5: Do you agree with our proposals for applying SMFs to Core and Limited Scope benchmark administrators?**

Yes.
- 6 Q6: Are there any Core SMFs or Prescribed Responsibilities that should not be applied to benchmark administrators?**

No response.

7 Q7: In line with our approach for other FCA regulated firms, do you agree that the Conduct Rules should be applied to all employees in benchmark administrators that undertake financial service activities?

Independent index providers were not traditionally set up as regulated entities, and tend to be more globally dispersed than traditional regulated financial services firms. Further, independent index providers tend to be part of or include significant non-regulated businesses and/or product lines within their corporate structure. The effect of applying the Conduct Rules in this way means that unregulated businesses, product lines and entities are de facto regulated. The result can be anomalous, for example, in the case where there are more people in unregulated businesses being wrapped into the regime than in the regulated businesses. Not only is this potentially disproportionate, but it also creates potential issues in terms of employment law. As such, it is our view that the Conduct Rules should apply only to individuals who are involved in benchmark administration.

8 Q8: Do you agree that benchmark administrators should have 12 months to train other staff on Conduct Rules, in line with the extension of the regime for other FCA regulated firms?

No response.

9 Q9: Do you agree that the Conduct Rules should be tailored for firms that are subject to the Annex II regime under the BMR to reflect their specific treatment under the BMR?

No response.

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