

From: Sonja Erica Väisänen
Sent: 05 December 2018 15:38
Cc: cmce@humbrophy.com
Subject: CMCE - Outcome of the FCA meeting on BMR implementation

Dear Member of the CMCE Benchmarks WG,

Please find below the summary of the meeting which took place on 29 November between CMCE and the FCA as a result of the CMCE letter on benchmarks implementation which CMCE sent on 4 October 2018.

From CMCE, the following attendees were present:

- Pierre Davis, S&P
- Derek Peach, S&P
- Bambina Forciniti, Argus Media
- Matt Thompson, Argus Media
- David Cook, IHS Markit
- Henry Manisty, IHS Markit
- The advisory team was represented by Chris Borg, Reed Smith

The aim of the meeting was to discuss what the FCA could do in relation to the two requests in the CMCE letter. The advisory team introduced the meeting, indicating that these requests are to include text in the FCA Handbook to reflect policy positions which have already been agreed with the FCA. In particular, (a) to move text from paragraphs 3.22 and 3.23 of the FCA Handbook Notice 56 (relating to freedom of expression and freedom of the press, and to Annex II benchmarks) and (b) to include clarificatory text in Bench 2.2 to make it clear that the obligations there stated to be relevant to "benchmark contributors" are not required for contributors to Annex II benchmarks.

It was stressed at the outset and throughout the meeting that these considerations (a) were a factor in benchmark administrators' consideration of the appropriate location for their regulated business and (b) had a material adverse effect on contribution to Annex II benchmarks, with increased difficulty in maintaining contribution levels.

The FCA representatives made the following comments:

- The FCA was overwhelmed with Brexit preparation work at present and are likely to be incapable of applying resource to this task. Even if the FCA were to change the Handbook, it would probably not happen for two years (and that isn't even a certain timeline).
- The FCA asked CMCE members to explain
 - (a) what level of priority should be applied to these requests, and
 - (b) what sorts of things could be done, other than changing the Handbook, which might alleviate the issues.
- Although CMCE members stressed that these requests were actually urgent and that the matter needed to be addressed now (to address issues with contributors), the FCA said that it was a question of resources and this was not possible.
- The FCA explored with the group various alternative methods for sending a signal that FCA agreed with the CMCE's approach on the two issues in question. These were fairly wide-ranging and the FCA did not commit to being able to assist with any of them.
- The overall impression was that CMCE was being asked to engage in a communication strategy with contributors in a way which would require the least input from the FCA (and the least level of internal approval and clearance within FCA). These suggestions from the FCA included:
 - The FCA suggested CMCE drawing a cartoon to indicate that contributors need have no concern;
 - The FCA suggested CMCE devise a training programme for contributors and that the FCA might be able to provide speakers;

- The FCA suggested that CMCE could compile a version of the FCA Handbook including only those elements relevant to benchmarks, and adding to it the relevant text from the Handbook Notice. This would be quite laborious from the CMCE perspective, and will lack the necessary reassurance of an FCA statement;
 - The advisory team suggested including a statement on the FCA's website, which the FCA could not commit to during the meeting;
 - Including a website area for Annex II benchmarks containing all the key information, which is favoured by CMCE members present but the FCA could not commit to it;
 - The FCA could write a "Dear CEO" letter (for publication on the website) to benchmark administrators, which would say "Remember all your obligations, but NB if you are an Annex II benchmark administrator remember these don't apply... we require you to comply with our rules, but be assured we also apply our rules consistently with freedom of expression/press etc etc" - The FCA representatives were non-committal, as they thought that the purpose of a Dear CEO letter had to be about obligations, rather than exceptions, but they did not rule it out.);
 - The FCA could include a statement in a periodical publication (FCA Insight or Market Watch); the FCA was not very supportive of this and added that Market Watch is an enforcement item and such a move might scare contributors);
 - The FCA could give individual guidance to CMCE - The FCA was not supportive of this and there was some concern that individual guidance if made generally available, e.g. on CMCE website, would become too much like general guidance);
 - The FCA could include relevant statements in published speeches. To this, the FCA clarified that not all speeches are published, so this may take some time to find the appropriate moment to include it in a speech which would definitely be published. It was stressed that CMCE members did not feel a speech would give enough comfort by itself and that all of these measures would only be second best to FCA actually changing the Handbook.
- The FCA made it clear that the text in the Handbook Notice 56 was much debated before it was committed to and that whatever solution was settled on, the FCA would be reluctant to change it.
 - The FCA made it clear that if CMCE members were to press for this, the FCA needed to know that it was really necessary. Given the urgency around Brexit, it is difficult to allocate resources within the FCA to something which is not of great, or indeed equal importance. Pushing for issues which are "unnecessary" at the moment will come at a high cost to FCA staff. The FCA was also concerned that CMCE was simultaneously approaching HM Treasury on the subject of Miscellaneous BM Persons. If CMCE is successful in its advocacy efforts towards HM Treasury, this may take away the urgency on their requests to FCA. For these reasons, if the FCA is being pressed for something which might become unnecessary, they will be unlikely to push for it.
 - The meeting concluded with the next action being for CMCE to come up with and communicate further solutions to FCA for consideration.

Please let us know if you have any questions.

Best regards,
Sonja

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