

## FSC TO IMPLEMENT A NEW REGULATORY REGIME FOR FINANCIAL BENCHMARKS

The FSC enacted an enforcement decree and a supervisory regulation to provide details for the management of financial benchmarks as the Financial Benchmark Act (hereinafter “the Act”)<sup>1</sup> will go into effect on November 27, 2020.

### **KEY PROVISIONS**

#### **(ESTABLISHMENT OF A REVIEW COMMITTEE)**

The FSC can establish a review committee to discuss the designation and cancellation of critical benchmarks and other important matters regarding financial benchmarks.

#### **(OPERATIONAL RULE ON CALCULATION)**

The enforcement decree provides details that should be included in an operational rule established by an administrator of critical benchmarks. The operational rule is aimed to stipulate requirements for administrators of critical benchmarks, contributors of input data, and users of critical benchmarks.

- **Administrators** are required to establish rules regarding methods and procedures to calculate critical benchmarks; prevention of conflict of interests; and management and supervision of input data contributors, etc.
- **Contributors**<sup>2</sup> are required to establish rules regarding procedures for preservation and submission of input data; qualification and responsibility of the person in charge of data submission; and internal control, etc.
- **Users**<sup>3</sup> are required to provide consumers with a document explaining the definition of critical benchmarks, methods and procedures of calculation, etc.

#### **(CRITICAL BENCHMARK MANAGEMENT COMMITTEE)**

The Act requires administrators of critical benchmarks to establish a committee for the management of critical benchmarks. The enforcement decree provides details regarding the composition and operation of the management committee.

- **(COMPOSITION)** The management committee shall consist of more than five members with expertise including at least two independent experts. More than half of the members shall have no conflict of interests.

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<sup>1</sup> Please refer to “New Legislation on Financial Benchmarks”(press release, October 31, 2019)

<sup>2</sup> Entities which contribute input data needed to calculate critical benchmarks, such as trading data or estimates of quotes

<sup>3</sup> Financial institutions who use critical benchmarks as a reference for financial transaction

- **(RESPONSIBILITIES)** The committee is responsible for deliberation and decision-making regarding important matters – e.g. the appropriateness of operational rules on calculation, the compliance with such rules and corrective measures for violation; the cessation of publishing critical benchmarks; and supervision on input data contributors.

#### **(OBLIGATIONS OF ADMINISTRATORS)**

- Administrators are required to review the appropriateness of calculation procedures and matters regarding organizations and employees responsible for reviewing and determining critical benchmarks.
- If there is a concern about conflict of interests, administrators are required to receive an inspection by an independent auditor at least once a year on the compliance with its operational rules.
- Administrators, contributors and users are required to preserve their data and records regarding critical benchmarks for five years.

#### **(FINANCIAL CONTRACTS)**

The enforcement decree stipulates types of financial contracts in which financial institutions are required to provide consumers with an explanatory document on critical benchmarks: savings, term deposits, loans, financial investment contracts, and insurance contract, etc.

#### **FURTHER PLAN**

The FSC will hold a review committee meeting within this year to determine criteria for designating critical benchmarks and start procedures in the first half of 2021 for the designation of critical benchmarks and administrators.

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