Financial Services Commission

Press Release

October 31, 2019

NEW LEGISLATION ON FINANCIAL BENCHMARKS

A new bill to regulate financial benchmarks was passed at the National Assembly on October 31, 2019. The new legislation is intended to ensure the validity and credibility of financial benchmarks[1] in response to global regulatory moves in which major countries including EU are introducing regulations on financial benchmarks. The FSC expects that the Financial Benchmark Act will strengthen the management and supervision on financial benchmarks, which will help secure financial stability.

KEY FEATURES

► Designation of "critical benchmarks"

The FSC may designate benchmarks that would have a significant impact on financial market stability, consumer protection and the real economy as "critical"[2] benchmarks.

► Administrator of critical benchmarks

The FSC may designate entities which determine, publish and provide critical benchmark as "administrators."[3]

► Obligations of administrator

- (ESTABLISHMENT OF COMMITTEE) Administrators are required to establish a committee to deliberate on important matters in regard with establishing and revising operational rules, collecting input data, calculating and determining critical benchmarks.
- (DISCLOSURE) Administrators are required to disclose details about operational rules and management of conflict of interest on their websites.
- (REVIEW) Administrators should review the validity of their operational rules at least every two years and disclose the results.

[1] A financial benchmark is defined as a reference index used to determine the amount of payable to a counterparty of a financial contract or the value of financial instrument; or an index used to calculate such amount or value.

[2] A benchmark can qualify as "critical" if (i) the volume of financial transaction using such a benchmark is large enough; (ii) there is no substitute; or (ii) the effect of undermining the validity and credibility of such benchmark would have a significant impact on financial market participants.

[3] Administrators are required to meet certain criteria: (i) the use of appropriate method to calculate benchmarks; and transparent systems for disclosing and managing such benchmarks; (ii) management on conflicts of interest and internal control (iii) systems in place to monitor contributors of input data and demand improvements if needed; and (iv) operational rules on calculations of benchmarks.

► Cessation of provision of critical benchmarks

Any administrator who intends to cease the provision of critical benchmarks for unexpected reasons shall post a public announcement on the reasons and the date of cessation for more than 20 days and report to the FSC six months before the date of cessation.

The FSC may order the transfer of such operations to other administrators or the continuation of such operations for a certain period of time not exceeding 24 months, if the cessation would have a significant impact on financial markets.

► Obligations of users

Users of critical benchmarks shall provide a counter party to a financial contract with written explanations on critical benchmarks.

► Prohibition of distortion and manipulation

Contributors of input data and administrators are prohibited from engaging in distortion or manipulation of input data and benchmarks and other unlawful activities.

► Inspection and punitive measures

The FSC oversees the compliance of the Financial Benchmark Act by administrators and may impose punitive measures against violations of laws such as administrative orders, punitive fines and penalties.

SCHEDULE

The new legislation will take effect in November 2020. Meanwhile, the government will continue to work with the EU for an approval that the new legislation is deemed equivalent to the EU's Benchmark Regulation (BMR).

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For any inquiry, please contact Foreign Press & Relations Team at fsc_media@korea.kr.