

ASIFMA-HERBERT SMITH FREEHILLS REPORT FINDS ASIA STRUGGLING TO MEET EU BENCHMARKS REGULATION DEADLINE

30 October 2018 | Asia
News

[ASIFMA](#), the financial industry's leading Asia trade association, today released a new [report](#) co-authored with Herbert Smith Freehills, "*The EU Benchmarks Regulation and Asia: Hurdles Rise as the 2020 Deadline Nears*".

The [EU Benchmarks Regulation](#) (the BMR) took effect on 1 January 2018, and will prohibit EU supervised entities from using unauthorised benchmarks in the EU from 1 January 2020. The halfway point of the two-year transitional period established under the BMR for administrators to register their benchmarks for use in the EU after 1 January 2020 is rapidly approaching. However, there have to date been no successful applications for registration by non-EU benchmark administrators of their benchmarks.

As discussed in ASIFMA and Herbert Smith Freehills' [previous reports](#) on this subject, considerable concern remains among administrators about how to apply for registration and what the impact will be if they fail to do so.

This is consistent with the results of the second, latest survey by ASIFMA and Herbert Smith Freehills of benchmark administrators across the Asia-Pacific region. Conducted in August 2018, the survey found that, while 86% of administrators intend to seek to register their benchmarks for use, there is still widespread uncertainty as to which of the registration options is most feasible.

The uncertainty associated with these options has been compounded by continued delays by European bodies in finalising the technical standards relevant to these options. As such, there is a significant risk that a number of non-EU administrators will fail to obtain registration of their benchmarks by 1 January 2020.

"This stands to effectively cut many European investors out of Asian markets as the indexes they rely on are rendered off-limits," said Wayne Arnold, head of policy and regulatory affairs at ASIFMA. "Many of these indexes are household names — benchmarks synonymous with key Asian markets. So this is understandably making administrators and regulators in Asia increasingly anxious."

This paper considers each of the three options available to non-EU administrators – namely, equivalence (as addressed in Section Two), recognition (Section Three) and endorsement (Section Four) – and the issues encountered by administrators during the course of 2018 in grappling with each of these potential options.

Given the continued difficulties experienced by administrators in navigating the registration options, the report authors are deeply concerned that very few non-EU administrators will successfully obtain registration by the 2020 deadline.

"As set out in our earlier reports, if large numbers of Asia-Pacific benchmark administrators are unable to obtain registration by 1 January 2020 – which seems likely given what we are currently hearing from administrators – markets globally and across the Asia-Pacific region are likely to suffer significant impact," said [William Hallatt](#), Partner at Herbert Smith Freehills.

This impact includes a reduction in the number of benchmarks in the region and denying EU firms – and potentially some of their affiliates – access to financial instruments and contracts that reference non-EU benchmarks, including derivatives, loans, bonds and mortgages.

The full report can be downloaded [here](#).

MEDIA CONTACT

For further information on this news article, please contact:

**SALLY GREIG, HEAD OF
COMMUNICATIONS, ASIA**

HONG KONG

Tel: +852 21014624

Email: sally.greig@hsf.com