



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 268

Licensing regime for financial benchmark administrators

April 2026

About this guide

This guide is for financial benchmark administrator licensees. It explains how we administer the financial benchmark licensing regime and how licensees may comply with their obligations under the *Corporations Act 2001*, the *ASIC Financial Benchmark (Administration) Rules 2018* and the *ASIC Financial Benchmark (Compelled) Rules 2018*. This guide also explains when we may use some of our powers in relation to significant benchmarks.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in April 2026 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 268, issued June 2018, reissued April 2022

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Regulation of financial benchmarks

Key points

Administrators of significant financial benchmarks (as declared by ASIC) must hold a benchmark administrator licence or be exempt from holding a licence. Administrators of other financial benchmarks may also apply for a licence.

Licensed administrators must comply with obligations imposed by the *Corporations Act 2001* (Corporations Act), the [ASIC Financial Benchmark \(Administration\) Rules 2018](#) (administration rules) and any directions issued by ASIC. Some of the administration rules also apply to contributors.

If we issue a notice under the [ASIC Financial Benchmark \(Compelled\) Rules 2018](#) (compelled rules), administrators and contributors named in the notice must comply with the notice.

Australian legislative framework

- RG 268.1 Financial benchmarks are indices or indicators used to:
- (a) determine the interest payable, or other sums due, under loan agreements or under other financial contracts or instruments;
 - (b) determine the price at which a financial instrument may be dealt, or the value of a financial instrument; or
 - (c) measure the performance of a financial instrument.

Note: Section 908AB of the Corporations Act defines ‘financial benchmark’.

- RG 268.2 Part 7.5B of the Corporations Act sets out the regulatory regime for financial benchmarks. The regime also confers supervisory and rule-making powers on ASIC.

Note: In this document, references to chapters (Chs), parts (Pts), divisions (Divs) or sections (s) are to the Corporations Act, unless otherwise specified.

Significant financial benchmarks

- RG 268.3 Under s908AC, we may declare, by legislative instrument, a financial benchmark to be a significant benchmark. We may do so if we are satisfied that:
- (a) the benchmark is systemically important to the Australian financial system; or
 - (b) there is a material risk of financial contagion, or systemic instability, in Australia if the availability or integrity of the benchmark was disrupted; or

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- (c) there would be a material impact on retail or wholesale investors in Australia if the availability or integrity of the benchmark was disrupted.

RG 268.4 We have declared a number of financial benchmarks to be significant benchmarks under the [ASIC Corporations \(Significant Financial Benchmarks\) Instrument 2018/420](#).

Licensing

RG 268.5 An administrator of a significant financial benchmark must hold a financial benchmark licence. Administrators of other financial benchmarks may also apply for a licence.

Note: It is an offence for a person to administer (or hold out that they administer) a significant benchmark without a licence: s908BA.

RG 268.6 ASIC must consider the factors set out in s908BO(2) when deciding whether to:

- (a) grant a licence application;
- (b) impose, vary or revoke conditions on a licence;
- (c) vary a licence; or
- (d) suspend or cancel a licence.

Note: See s908BO(1).

ASIC financial benchmark rules

RG 268.7 We have made the following financial benchmark rules under the Corporations Act:

- (a) [ASIC Financial Benchmark \(Administration\) Rules 2018](#) (administration rules) (s908CA); and
- (b) [ASIC Financial Benchmark \(Compelled\) Rules 2018](#) (compelled rules) (s908CD).

About this guide

RG 268.8 Section B of this guide explains our approach to licence and exemption applications and provides an overview of some of our powers in relation to licensed administrators.

RG 268.9 Sections C–E of this guide explain how licensees may comply with particular administration rules.

RG 268.10 Section F of this guide provides guidance about the compelled rules.

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B Applying for a licence or exemption

Key points

This section:

- explains our approach to assessing licence and exemption applications, including from overseas benchmark administrators; and
- provides an overview of some of our powers in relation to licensed administrators.

Applying for a licence and conditions on a licence

RG 268.11 Under s908BD, a body corporate may, by lodging an application with ASIC, apply for a benchmark administrator licence authorising it to administer the financial benchmark specified in the licence.

RG 268.12 Section 908BO lists matters ASIC must take into account when deciding whether to grant a licence, impose a licence condition or make other licensing decisions, including whether to grant exemptions. These matters are:

- (a) how the financial benchmark is, or is to be, administered;
- (b) the nature and purpose of the financial benchmark;
- (c) the manner in which the financial benchmark is, or is to be, used;
- (d) the persons who are, or may be, required to report data or other information to the licensee for the purposes of generating or administering the financial benchmark;
- (e) for an entity that is authorised to administer the same or a similar financial benchmark in the foreign country in which its principal place of business is located:
 - (i) the criteria that the entity satisfied to obtain an authorisation to administer that financial benchmark in that country;
 - (ii) the obligations the entity must continue to comply with to keep the authorisation;
 - (iii) the level of supervision to which the administration of that financial benchmark in that country is subject; and
 - (iv) whether adequate arrangements exist for cooperation between ASIC and the authority that is responsible for that supervision; and
- (f) whether it would be in the public interest to take the licensing or regulatory action.

RG 268.13 We may also take into account any other matter that we consider relevant.

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- RG 268.14 Section 908BC provides that ASIC may grant an applicant a benchmark administrator licence if we are satisfied that:
- (a) the application has been made in accordance with s908BD;
 - (b) the applicant will comply with its obligations if the licence is granted (see RG 268.44); and
 - (c) no disqualified individual appears to be involved in the applicant (see RG 268.47–RG 268.48).
- RG 268.15 When deciding whether to grant a licence to an applicant, we will consider whether the benchmark has some connection to Australia or whether there is a potential benefit for the Australian financial system or Australian investors.
- RG 268.16 ASIC must not grant an applicant a benchmark administrator licence unless:
- (a) the applicant is registered under Div 2 of Pt 5B.2, where the applicant is a foreign body corporate (s908BC(2)); and
 - (b) 42 days have passed since the application was made and we have not given a notice under s853D(2) to the applicant within that time (s908BC(3)).
- Note: A notice under s853D(2) is a notice that we propose to make a declaration under s853C that an individual who is involved in the licence applicant is disqualified for the purposes of Div 2 of Pt 7.4.
- RG 268.17 Under s908BG, we may impose conditions, or additional conditions, on a benchmark administrator licence.
- RG 268.18 We will make publicly available the list of licensees and their licence conditions.

Disqualified individuals

- RG 268.19 To enable us to assess the requirement in s908BC(1)(c) that no disqualified individual appears to be involved in the applicant, or the applicant's holding company, an application should include the following:
- (a) for each director, secretary and senior manager of the applicant:
 - (i) their full name, address and contact details; and
 - (ii) whether they are, or have been, disqualified; and
 - (b) for each individual who holds more than 20% voting power in the applicant, or a holding company of the applicant:
 - (i) their full name, address and contact details; and
 - (ii) whether they are, or have been, disqualified.

Note: See s853A and 853B and RG 268.47.

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No unacceptable control situation is likely to result when a licence is granted

- RG 268.20 Where a domestically incorporated licence applicant has shareholders whose voting power will exceed 20% when the licence is granted, we must separately assess and approve each instance in which shareholder voting power exceeds 20%. This assessment occurs at the same time as we consider and decide the licence application. This process ensures that no unacceptable control situation arises after the licence is granted: s852DA, 852DB and 852DD.
- RG 268.21 Although we may consider a licence application and the voting power of each of the applicant's shareholders concurrently, we must issue a separate written approval for each shareholder whose voting power will exceed 20% at the same time we grant the licence.
- RG 268.22 For further information, see ASIC approval to have greater than 20% voting power in RG 268.59–RG 268.67.

Our approach to overseas licensees

- RG 268.23 In some cases, an overseas administrator that is required to hold a benchmark administrator licence may already be complying with the requirements of a substantially equivalent overseas regulatory regime.
- RG 268.24 In relation to these overseas administrators, we may consider:
- (a) accepting reliance (in whole or in part) on compliance with overseas regulation—for example, in lieu of direct compliance with specific Australian obligations; and
 - (b) where appropriate, also exempting the benchmark administrator from specified obligations under the Australian regime.
- RG 268.25 We will adopt the approach that is most appropriate to the circumstances of the particular case.

Reliance on regulation under an overseas regime

- RG 268.26 Section 908AF provides that, if a licensed benchmark is wholly or partly generated or administered in a foreign country, we may, to the extent we consider appropriate, perform the function of supervising the licensed benchmark by satisfying ourselves that:
- (a) the regulatory regime that applies to the licensed benchmark in the foreign country provides for adequate regulation of the licensed benchmark; or

- (b) adequate cooperative arrangements are in place with an appropriate authority of the foreign country to ensure that the licensed benchmark will be adequately supervised by that authority.

Substantially equivalent regulatory regime

RG 268.27 To assess whether the regulatory regime that applies to the administration of the licensed benchmark in the foreign country provides adequate regulation, we will consider whether the overseas regulatory regime is sufficiently equivalent to the Australian regulatory regime.

RG 268.28 We will apply the approach set out in Regulatory Guide 54 *Principles for cross-border financial regulation* ([RG 54](#)), and consider the extent to which the overseas regulatory regime, as it applies to the administration of the licensed benchmark:

- (a) is clear, transparent and certain;
- (b) is adequately enforced;
- (c) is consistent with relevant international principles (see RG 268.32); and
- (d) achieves outcomes equivalent to the outcomes of the Australian regulatory regime for financial benchmarks (see RG 268.33).

Note: See International Organization of Securities Commissions (IOSCO), [Principles for financial benchmarks](#) (PDF 388 KB), final report, July 2013; and IOSCO, [Principles for oil price reporting agencies](#) (PDF 423 KB), final report, October 2012.

RG 268.29 We may also consider whether the overseas regime provides for adequate review and reporting on regulatory compliance, such as an annual external audit of the licensee's compliance with relevant international principles in a way that meets the requirements of the overseas regime.

Consistent with international principles

RG 268.30 To determine whether there is sufficient regulatory equivalence between the overseas regime and Australia's regulatory regime, we will consider whether an overseas regulatory regime is designed to achieve the policy outcomes of relevant international principles.

RG 268.31 This may be demonstrated in a number of ways—for example:

- (a) where the overseas regime applies the [IOSCO benchmarks principles](#) (PDF 388 KB) in its regulations;
- (b) where the overseas regime uses the IOSCO benchmarks principles as a standard for assessing compliance with the overseas regime; or
- (c) by reference to an assessment by IOSCO that the jurisdiction has fully or broadly implemented the IOSCO benchmarks principles.

RG 268.32 We will take into account any revised or newly established principles or recommendations on financial benchmarks published by IOSCO, or other relevant international standard-setting body or forum.

Equivalent outcomes to the Australian regulatory regime

RG 268.33 Consistent with the relevant international principles, we consider the relevant outcomes are:

- (a) robust governance and oversight arrangements;
- (b) requirements to ensure the quality of the licensed benchmark, including the design of the licensed benchmark and the use of data in determining the licensed benchmark;
- (c) requirements to ensure the quality of the licensed benchmark's method; and
- (d) requirements to ensure a high level of accountability, including audit and cooperation with regulatory authorities.

RG 268.34 To determine whether the overseas regulatory regime achieves the key outcomes, we will focus on whether the outcomes are achieved from the perspective of the stability of the Australian financial system, and the protection and confidence of Australian investors.

RG 268.35 The regulatory mechanisms used in each country may differ. This means we need to review and understand, in detail, the regulatory mechanisms used in an overseas regime to achieve these regulatory outcomes, especially if they are not the same as the Australian regulatory mechanisms.

Adequate cooperative arrangements

RG 268.36 We will normally expect that adequate cooperative arrangements with an overseas regulator will provide for:

- (a) prompt sharing of information by the home regulatory authority; and
- (b) adequate exchanges of information to support our supervision, investigation and enforcement functions.

RG 268.37 Adequate cooperative arrangements would usually involve direct and continuing contact with the relevant officers of the overseas regulator.

RG 268.38 In some circumstances, we may not require a cooperative arrangement with an overseas regulator if we have established information access arrangements directly with the overseas licensee—for example, where the licensee is complying with an overseas regime that has greater reliance on regulatory mechanisms such as external audits undertaken by the licensee.

RG 268.39 Where arrangements with the overseas licensee gives ASIC access to information that is substantially similar to what we would have under a regulatory cooperation arrangement with an overseas regulator, we may decide that the licensee's compliance with overseas regulatory obligations could be considered to partially or wholly meet obligations under an Australian licence. This does not affect the legal obligations of the licensee under the Australian regime but does affect how we administer the regime.

Extent of reliance on overseas regime

RG 268.40 In these scenarios, we will work with the licensee to clarify:

- (a) the extent to which we may rely on compliance with an overseas regime's requirements as meeting Australian requirements; and
- (b) whether we will rely on regulatory cooperation arrangements with an overseas regulator or require direct information access arrangements with the licensee.

Exemptions

RG 268.41 We may exempt a person from the need to be licensed under Pt 7.5B or from the specific obligations that will apply once a person is licensed. An exemption may be subject to specified conditions.

RG 268.42 Generally, we will only exempt a person from the need to be licensed in rare circumstances, including:

- (a) where regulatory outcomes for financial benchmarks are not relevant to the specific financial benchmark;
- (b) where regulatory outcomes are achieved without regulation, for example if an entity is subject to other forms of regulation that already achieve all of the regulatory outcomes and benefits under Pt 7.5B;
- (c) if the cost of regulation required to achieve the regulatory outcomes for a financial benchmark significantly outweighs the benefits of those outcomes; or
- (d) if granting an exemption will harmonise with the intended scope of relevant international principles.

RG 268.43 For overseas licensees, we may in some cases grant an exemption from specified provisions of the Australian regime (with appropriate conditions) where we are satisfied that the criteria outlined in s908AD have been met. In other cases, we may determine that the licensee should remain subject to the requirements of the Australian regime if that helps to maintain Australian financial system stability or Australian investor confidence.

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Licensee's general obligations

- RG 268.44 Under s908BP, a benchmark administrator licensee must:
- (a) comply with the conditions on its licence; and
 - (b) if the licensee is a foreign body corporate, be registered under Div 2 of Pt 5B.2; and
 - (c) take all reasonable steps to ensure that each core officer of the licensee is:
 - (i) a fit and proper person to perform their functions; and
 - (ii) capable, including being competent, to perform their functions;
 - (d) take all reasonable steps to ensure that no disqualified individual becomes, or remains, involved in the administration of the financial benchmark specified in the licence; and
 - (e) take all reasonable steps to ensure that no individual against whom a financial market infrastructure (FMI) banning order is made becomes or remains involved in the licensee or does any of the things prohibited under the FMI banning order in relation to the licensee.

Core officers must be 'fit and proper' and 'capable'

- RG 268.45 A core officer of a benchmark administrator licensee includes:
- (a) a director or secretary of the licensee; or
 - (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole or a substantial part of the business of the licensee; or
 - (ii) who has the capacity to affect significantly the licensee's financial standing; or
 - (iii) in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (commonly known as a shadow director).

Note: See s9 and s9AD1(a) and (b). Also see paragraph 3.110 of the [Explanatory Memorandum to the Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#).

- RG 268.46 A benchmark administrator licensee should take all reasonable steps to ensure that each core officer:
- (a) is competent to undertake their role in relation to the administration of the financial benchmark;
 - (b) has the attributes of good character, diligence, honesty, integrity and judgement;

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- (c) is not disqualified or subject to a banning order by law from performing their role (s853A, 853F, 853H and 853K);
- (d) has demonstrated the knowledge, skills and experience to perform their role; and
- (e) either has no conflict of interest in performing their role, or any conflict that exists will not create a material risk that the person will fail to properly perform their role.

Note: The criteria in RG 268.46 are consistent with the criteria for responsible persons of authorised deposit-taking institutions in APRA's Prudential Standard [CPS 520](#) *Fit and proper*, for Australian financial services licences in Regulatory Guide 1 *Applying for and varying an AFS licence* ([RG 1](#)) and for Australian credit licences in Regulatory Guide 204 *Applying for and varying a credit licence* ([RG 204](#)).

Individuals—disqualified or subject to a banning order— not to become or remain involved in the administration of a financial benchmark

RG 268.47 An individual is 'involved' in a benchmark administrator licensee if they are:

- (a) a director, secretary or senior manager of the licensee, or in a holding company of the licensee; or
- (b) an individual who has more than 20% of the total voting power in the licensee, or in a holding company of the licensee.

Note: See s853B.

Disqualified individuals

RG 268.48 Licensees must take all reasonable steps to ensure the following disqualified individuals are not involved in the administration of the financial benchmark specified in their licence:

- (a) individuals declared by ASIC under s853C as being unfit to be involved in the licensee, taking into account such matters as the individual's fame, character and integrity; or
- (b) individuals who have been automatically disqualified from managing a corporation due to certain circumstances including convictions, bankruptcy and foreign court orders (s206B); or
- (c) individuals who are on the register of disqualified company directors and other officers that ASIC must keep under s1274AA.

Note: See s853A.

Individuals subject to FMI banning orders

RG 268.49 Licensees must take all reasonable steps to ensure that any individual who is subject to an FMI banning order is not involved in the administration of the financial benchmark specified in their licence.

- RG 268.50 We have the power to issue an FMI banning order to prevent an individual who is insolvent, convicted of fraud, not fit and proper, not capable or competent, or has not complied with (or is likely to contravene) a financial services law from controlling or performing core functions at an FMI licensee: s853H, 853L and 853M.
- RG 268.51 Section 853K outlines the matters that we must consider when determining if an individual is not ‘fit and proper’ for the purposes of FMI banning orders. These matters include (but are not limited to) whether the individual has been:
- (a) a core officer of an FMI licensee that had its licence suspended or cancelled;
 - (b) subject to a banning order (including an FMI banning order);
 - (c) disqualified from managing corporations;
 - (d) banned from engaging in a credit activity (within the meaning of the *National Consumer Credit Protection Act 2009*) under a law of a state or territory;
 - (e) an insolvent under administration;
 - (f) convicted of an offence in the last 10 years; or
 - (g) linked to a refusal or failure to give effect to a determination made by the Australian Financial Complaints Authority.

Complying with ongoing obligations relating to core officers’ ‘fitness and propriety’ and ‘capability’, and ‘disqualified’ or ‘banned’ individuals

- RG 268.52 While there are no prescribed steps that a licensee must undertake to satisfy the ongoing obligations in RG 268.44(c)–(e), a licensee may exercise its own discretion in determining how it satisfies itself that these requirements have been met. This may include making inquiries and assessments on a regular basis (e.g. annually), such as undertaking a national criminal history check, a bankruptcy check, and verifying that no disqualified individual, or individual subject to an FMI banning order, is involved with or remains engaged by the licensee.
- RG 268.53 Licensees should retain supporting documentation evidencing these inquiries and assessments, and should be able to provide such documentation to ASIC on request.

Note: This approach is consistent with ASIC’s approach under the Australian Financial Services Licence and Australian Credit Licence regimes, see [RG 1](#) and Regulatory Guide 206 *Credit licensing: Competence and training* ([RG 206](#)).

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ASIC supervisory powers relating to financial benchmarks

RG 268.54 ASIC may conduct an assessment of how well a licensee is complying with any or all of its licence obligations. In doing the assessment, we may take into account any information and reports that we consider appropriate: s908BW.

RG 268.55 If a licensed benchmark is wholly or partly generated or administered from a foreign country, we may perform the function of supervising the licensed benchmark by satisfying ourselves that:

- (a) the regulatory regime in the foreign jurisdiction provides for adequate supervision of the licensed benchmark; or
- (b) there are adequate cooperation arrangements in place with the foreign regulator to ensure that the licensed benchmark is adequately supervised.

Note: See s908AF(2).

Suspension and cancellation of a licence

RG 268.56 Under s908BI, we may, by written notice, suspend a licence for a specified period, or cancel it, if:

- (a) the licensee ceases to carry on the business of administering the financial benchmark specified in the licence;
- (b) it has been at least 12 months since ASIC granted the licence, and during the last 12 months the licensee has not administered the financial benchmark, or engaged in conduct or activity specified in the licence;
- (c) the licensee is a Chapter 5 body corporate, or under a foreign law is in a similar position to a Chapter 5 body corporate;
- (d) the licensee asks ASIC to suspend or cancel its licence;
- (e) the licensee is being deregistered as a company under s601AA or 601AB; or
- (f) in the case of a licensee that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*), an amount of levy payable by the licensee (including any payment or shortfall penalty payable in relation to the levy) has not been paid in full at least 12 months after the payment due date.

ASIC's power to require reports

RG 268.57 We may, by written direction, direct a benchmark administrator licensee to give us a report dealing with specified matters. If we require, the report must include an audit statement on the licensee's report on those matters. In addition, we may, by written notice:

- (a) appoint an expert to provide us with a report on specified matters relating to the benchmark administrator's compliance with its obligations as a benchmark administrator licensee; or

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- (b) direct the licensee to appoint a specific person to provide us with an expert report on specified matters relating to the licensee's compliance with its obligations as a benchmark administrator licensee.

RG 268.58 A licensee must give all information, explanation and assistance to the expert, as the expert reasonably requests for the preparation and provision of the expert report.

Note: See s908BV and 908BWA.

ASIC approval to have greater than 20% voting power

RG 268.59 ASIC approval is required before a person can hold more than 20% voting power in a domestically incorporated financial benchmark licensee or its holding company (a type of 'controlled Australian financial body'): s852DG and Div 1A of Pt 7.4. Guidance about voting power and related concepts is set out in Regulatory Guide 5 *Relevant interests and substantial holding notices* ([RG 5](#)).

RG 268.60 A person's voting power in a licensee or its holding company is the total number of votes attached to all the voting shares in the licensee or its holding company: s610. Voting power can arise without a person directly holding securities, for example through associates (see s12) or through influence over another body. A single acquisition can trigger approval requirements for multiple persons where each person's voting power would exceed 20%.

RG 268.61 To exceed the 20% voting power threshold, or to increase voting power that is already over 20%, a person must apply to ASIC, specifying their current and intended voting power, the period for which the approval is sought, and the reasons for their application: s852DG. If any information in the application changes or is incorrect after the application is made, the applicant must, as soon as practicable, give ASIC the correct information in writing: s852DQ.

RG 268.62 An unacceptable control situation exists in relation to a controlled Australian financial body and a particular person if the person's voting power exceeds either 20% or an approved higher percentage: s852DB.

Note: If, on 17 September 2024, a person held more than 20% voting power in a controlled Australian financial body, the person is taken to have been granted approval by ASIC to hold that percentage of voting power indefinitely unless varied or revoked: s1705L.

RG 268.63 We must provide written notice of our approval to the applicant if we are satisfied that the specified percentage in the application is the highest percentage of voting power, of that sought, for which the applicant passes the 'legitimate control test', and we believe relevant information in the

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application, or later provided by the applicant, is correct. Otherwise, we must refuse the application and notify the applicant in writing: s852DH. A person passes the legitimate control test unless it is reasonable to expect that holding the proposed voting power in the licensee or holding company would adversely affect the licensee's ability to meet one or more of its obligations: s852DC. Our approval can be for a specified period—which may be extended—or indefinitely, and can be subject to conditions.

- RG 268.64 We have 90 days to decide on an application and may extend this by up to 30 days. If we do not decide within this period, approval is deemed to have been granted. We may request further information and the decision period is paused until information is provided or if an unacceptable control situation exists: s852DR.
- RG 268.65 We may impose, vary or revoke conditions after approval by written notice, on our own initiative or by application from the person who holds the s852DH(1) approval: s852DL.
- RG 268.66 We may vary a person's approval, such as changing the approved percentage or duration, on application by the person holding the approval or on our own initiative: s852DM.
- RG 268.67 Under s852DN, we may revoke an approval if we are satisfied that:
- (a) the person no longer passes the legitimate control test; or
 - (b) an unacceptable control situation exists in relation to the licensee and the person; or
 - (c) there has been a contravention of an approval condition; or
 - (d) information provided by the applicant was incorrect at the time of our decision.

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C Governance, management and resources

Key points

This section explains how we expect licensees to comply with rules for governance, oversight and managing conflicts of interest, and how licensees can meet the requirement to have adequate resources.

Guiding obligations

- RG 268.68 Rule 2.1.1 of the administration rules requires a licensee to act efficiently, honestly and fairly in generating and administering each benchmark specified in its licence.
- RG 268.69 A licensee's arrangements for a licensed benchmark must be appropriate for the nature, complexity and intended use of the licensed benchmark. Consideration of what is appropriate for a particular licensed benchmark should take into account the intended, expected or known use of the licensed benchmark, and the nature of conflicts of interest arising in the generation and administration of the licensed benchmark.
- RG 268.70 Intended, expected or known use of the licensed benchmark could take into account the types of users that have direct access to the licensed benchmark (i.e. through a subscription service from the administrator), the types of contracts or other functions that typically reference the licensed benchmark and, where the information is readily available, the significance of the licensed benchmark to the market.
- RG 268.71 A licensee must also, to the extent that it is reasonably practicable to do so, maintain the quality, integrity, availability, reliability and credibility of the licensed benchmark, and generate and administer the licensed benchmark in a way that does not adversely affect the integrity of any market connected with the benchmark.

Governance, management and oversight

- RG 268.72 Rule 2.1.2 of the administration rules requires a licensee to have adequate arrangements for the governance and management of the licensee.
- RG 268.73 The licensee must also have adequate arrangements for the oversight and control of internal and external parties' roles in the generation and administration of a licensed benchmark. Oversight arrangements must ensure

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the licensee remains responsible for all of the functions involved in generating or administering a licensed benchmark.

- RG 268.74 Consistent with the [IOSCO benchmarks principles](#) (PDF 388 KB), the concept of generation and administration of a financial benchmark should be interpreted broadly to include:
- (a) development—defining the financial benchmark and financial benchmark method;
 - (b) determination and dissemination—accurate and timely determination and distribution of the financial benchmark;
 - (c) disclosure—providing appropriate transparency of the financial benchmark; and
 - (d) governance and oversight—establishing robust governance, oversight and accountability arrangements to administer the financial benchmark, including its development, determination and distribution.

Oversight arrangements

- RG 268.75 Depending on the nature, complexity and intended use of a licensed benchmark, an effective oversight arrangement might consist of an oversight committee or another mechanism to review and challenge how all aspects of the licensed benchmark are administered.
- RG 268.76 The oversight function should involve reviewing and monitoring the operational aspects of benchmark administration, including:
- (a) benchmark design, including periodic reviews of benchmark design;
 - (b) changes to the benchmark’s method;
 - (c) risk monitoring, including risks to the integrity, reliability and effectiveness of the licensed benchmark; and
 - (d) procedures for the cessation of the benchmark.
- RG 268.77 The oversight function should apply to the governance of benchmark administration, including:
- (a) reviewing the guidelines, policies and conventions that support the administration of the licensed benchmark;
 - (b) oversight of outsourcing to third parties;
 - (c) assessing the need for audits and external reviews and, where applicable, implementing the outcomes of audits and reviews;
 - (d) monitoring any use of discretion by the licensee; and
 - (e) for submission-based benchmarks, ensuring more robust oversight of monitoring of submissions and inputs.

Audits and breaches

- RG 268.78 Rule 2.1.2(3) of the administration rules requires a licensee's governance arrangements to be reviewed, audited and tested periodically. The frequency of the audit, and whether it should be an internal or external audit, should be determined taking into account the nature, complexity and intended use of the licensed benchmark and how it is determined.
- RG 268.79 Effective governance, management and oversight arrangements should include a robust mechanism to identify conduct that may undermine the integrity, reliability and effectiveness of the licensed benchmark. This should include a whistleblower policy.

Outsourcing

- RG 268.80 Rule 2.1.3 of the administration rules requires a licensee that outsources any of the functions involved in generating or administering a licensed benchmark to have documented arrangements with its service providers. A licensee must have adequate arrangements to ensure it complies with its obligations under Pt 7.5B in relation to the outsourced functions, and the service provider is complying with its obligations under the outsourcing arrangement.
- RG 268.81 Consistent with the [IOSCO benchmarks principles](#) (PDF 388 KB), this rule is particularly important for functions relating to the determination of the licensed benchmark.
- RG 268.82 A licensee may comply with Rule 2.1.3 of the administration rules by:
- (a) ensuring that the service provider has the ability, capacity and any authorisation required by law to perform the outsourced functions reliably and professionally;
 - (b) appropriately supervising the service provider in carrying out the outsourced functions;
 - (c) being able to terminate the outsourcing arrangements where necessary; and
 - (d) requiring the service provider to disclose to the licensee any development that may have a material impact on the service provider's ability to provide the outsourced functions.
- RG 268.83 The licensee should also retain the necessary expertise to supervise the outsourced functions effectively. This includes having people with sufficient skills, knowledge and experience to assess whether the outsourced function has been performed in line with the outsourcing arrangement.

Conflicts of interest

- RG 268.84 Rule 2.1.4 of the administration rules requires a licensee to have adequate arrangements for handling conflicts of interest in relation to generating and administering each of its licensed benchmarks.
- RG 268.85 This rule is intended to ensure that actual or potential conflicts of interest do not inappropriately influence benchmark determination, thereby ensuring that the integrity, reliability and credibility of the licensed benchmark are protected.
- RG 268.86 In some cases it may be sufficient for a conflict of interest to be disclosed to stakeholders, including users and contributors. In other cases, the rule may require additional arrangements for managing or avoiding conflicts of interest. For example:
- (a) where a conflict is created by the licensee's ownership structure or controlling interests, it may be necessary to manage the conflicts by having an independent oversight function. This function should be comprised of a balanced representation of stakeholders, including users and contributors;
 - (b) where the licensee, its affiliate or, in some cases, outsourced service providers also provide non-benchmark administration services, this may give rise to conflicts of interest. These must be subject to robust oversight and should be disclosed to stakeholders, including contributors and users;
 - (c) where discretion may be used in the benchmark determination process, it must be free from the influence of conflicts of interest, be independently and honestly exercised, and be subject to adequate review and signoff before the determined benchmark is disseminated; and
 - (d) conflicts of interest for the staff of the licensee should be specifically considered and managed (e.g. ensuring their remuneration structure does not create incentives based on the outcomes of benchmark determination).
- RG 268.87 Rule 2.1.4(3) of the administration rules requires a licensee's arrangements for handling conflicts of interest to be reviewed, audited and tested periodically. The frequency of the audit, and whether it should be an internal or external audit, should be determined taking into account the nature, complexity and intended use of the licensed benchmark and how it is determined.

Adequate resources

- RG 268.88 Rule 2.1.5 of the administration rules requires a licensee to have sufficient human, technological and financial resources. In complying with this requirement, a licensee should undertake:
- (a) a qualitative assessment as to whether the resources are appropriate for the tasks they are required to do; and
 - (b) a quantitative assessment as to whether enough of those resources are applied to the task.
- RG 268.89 Rule 2.1.6 of the administration rules requires a licensee to ensure that its officers, managers, employees and representatives who are involved in the generation or administration of the licensed benchmark are fit for office and have the necessary experience, qualifications and skills to perform their roles.
- RG 268.90 In addition, licensees should maintain policies dealing with:
- (a) staff training;
 - (b) periodic reviews for competence; and
 - (c) continuity and succession planning.
- RG 268.91 Rule 2.1.7 of the administration rules requires a licensee to hold or have legally certain access to financial resources to cover at least six months of current operating expenses. For some licensees, it may be appropriate to have a plan for raising additional equity, which should be approved by the board.

D Licensed benchmark design, data and method

Key points

This section explains how licensees may comply with administration rules dealing with the design of a licensed benchmark, including:

- selecting and using financial benchmark data;
- the method for determining the licensed benchmark; and
- changes to the method.

It also explains how licensees are expected to comply with rules about:

- the cessation of the licensed benchmark; and
- maintaining written guidelines or a code of conduct for submitters.

Benchmark design and method

RG 268.92 Rule 2.2.1 of the administration rules requires a licensee to ensure a licensed benchmark is designed, to the extent it is reasonably practicable, to be an accurate and reliable representation of the interest it is intended to measure. Rule 2.2.1 should be read in conjunction with Rule 2.2.3 about the method for generating a licensed benchmark.

RG 268.93 Together, we consider these rules require the method to specify or refer to:

- (a) definitions of key terms used in the method;
- (b) the criteria and procedures used to develop the licensed benchmark, including:
 - (i) how financial benchmark data is selected; and
 - (ii) the mix of financial benchmark data that may be used to determine the licensed benchmark and the priority given to each type of financial benchmark data;
- (c) the minimum data needed to determine a licensed benchmark, and whether and when a model or extrapolation may be used;
- (d) if the generation of the licensed benchmark involves the exercise of expert judgement or discretion by the administrator:
 - (i) the guidelines, rules and other controls that govern the exercise of expert judgement; and
 - (ii) procedures and practices designed to promote consistency in how expert judgement is exercised;
- (e) the procedures for validating data. This means having procedures for dealing with errors in financial benchmark data or in the benchmark

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determination, and when the licensed benchmark will be re-determined because of errors that have been identified after the benchmark was first determined;

- (f) the procedures for reporting to ASIC suspicious activity in relation to the financial benchmark data used to generate the financial benchmark;
- (g) the frequency for internal reviews and approvals of the method. The frequency and extent of the review should reflect the type and nature of the benchmark, as well as any risks inherent in the design of the method;
- (h) when the licensee may consult on a proposed material change to the licensed benchmark;
- (i) how the licensed benchmark is determined when financial benchmark data might be unreliable or absent—for example, in periods of market stress or disruption; and
- (j) the potential limitations of the benchmark, including when financial benchmark data may be unreliable or absent.

RG 268.94 The design of a licensed benchmark also needs to be sufficiently flexible so that it can be applied in a range of market conditions, but not so wide a range that the licensed benchmark would not be representative of the interest it is intended to measure.

RG 268.95 The licensee should also review and change the mix of financial benchmark data as appropriate.

Financial benchmark data

RG 268.96 Rule 2.2.2(1) of the administration rules requires a licensee to take all reasonable steps to ensure the financial benchmark data that is used to generate a licensed benchmark is sufficient to accurately and reliably represent the interest it is designed to measure.

RG 268.97 Financial benchmark data includes a wide range of data or information that may be used to determine a financial benchmark. Licensees should have a process for selecting the types of financial benchmark data to use and determining who may contribute financial benchmark data.

RG 268.98 Rule 2.2.2(2) of the administration rules requires a licensee to have appropriate internal controls over its data collection and transmission processes. It also requires a licensee to have adequate arrangements to control the acceptance, retention and use of financial benchmark data.

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- RG 268.99 These arrangements must include arrangements reasonably designed to ensure that the licensee accepts financial benchmark data only from authorised persons (where applicable) and that the retention of financial benchmark data maintains the security and integrity of that data.
- RG 268.100 These arrangements must include monitoring and review processes that are designed to ensure that the licensee uses accurate and complete financial benchmark data. The monitoring and review arrangements should reflect the nature of financial benchmark data used. For example:
- (a) if a licensed benchmark uses submissions (particularly submissions that involve use of expert judgement), it would be important to have reasonably designed internal controls to identify non-compliance with the submission guidelines and the applicable code of conduct;
 - (b) if a licensed benchmark uses market data, it may be appropriate to review the completeness and accuracy of data when end-of-day market information becomes available; and
 - (c) depending on the quality and integrity of the financial benchmark data, it may be necessary to undertake statistical or other analysis of the financial benchmark data against other relevant data or information (such as data from the underlying market) to identify and follow up on irregularities or potential errors, where reasonably practicable.
- RG 268.101 Licensees should also have arrangements designed to enforce compliance with the requirements for financial benchmark data as set out in the method for calculating the licensed benchmark, guidelines or code of conduct. For example, where financial benchmark data is obtained from commercial vendors, there should be contractual provisions dealing with these matters which provide sufficient commercial recourse if there is a breach of contract.

Hierarchy of financial benchmark data

- RG 268.102 Rule 2.2.3(2)(c) of the administration rules requires the method to set out the hierarchy for the order in which financial benchmark data will be used—though transaction data should be used where it is available and sufficient. This requirement will help the licensee and other stakeholders to assess whether the method is reliable and generates an accurate representation of the interest the licensed benchmark is intended to measure. Rule 2.2.2 of the administration rules requires that, where data from an active market involving arm's length transactions is available and that data is sufficient to accurately measure the interest, that data must be used.
- RG 268.103 To meet these requirements, the licensee should ensure that the method:
- (a) prioritises the use of transaction data. However, other data (such as executable quotes or data sourced from commercial vendors) can be

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used if it provides a more accurate representation of the interest, market or economic reality the licensed benchmark is intended to measure; and

- (b) identifies the minimum quantity or quality required of each type of financial benchmark data, and how the data will be used.

RG 268.104 Rule 2.2.3(3) of the administration rules requires a licensee to ensure the method and its use of the method are reviewed and tested periodically, and updated as appropriate. The frequency of the review and testing should be determined taking into account the nature, complexity and intended use of the licensed benchmark and how it is determined.

Changes to the method

RG 268.105 Rule 2.2.4 of the administration rules requires a licensee to take steps to consult and notify users before making a proposed material change to the method, including a final stage method (see RG 268.107–RG 268.108). The requirement to consult and notify is a requirement to take such steps as are reasonable to take in the circumstances. A licensee must also notify ASIC in writing about the proposed change within a reasonable time before the change is implemented.

RG 268.106 Where a licensee has procedures to consult on proposed changes to the method, this can be done through advisory committees rather than public consultation. We consider good practice consultation would involve:

- (a) giving relevant stakeholders sufficient time to consider and provide feedback; and
- (b) providing information to stakeholders on consultation feedback where practicable.

BBSW administrator must maintain final stage method

RG 268.107 Rule 2.2.5 of the administration rules requires that a licensee whose licence specifies the BBSW must maintain a method (a final stage method) for generating and administering the BBSW that will allow the BBSW to be generated when normal methods have failed or are likely to fail.

Note: BBSW means the bank bill swap rate, a short-term money market benchmark interest rate, as specified in a benchmark administrator licence under s908BC(1).

RG 268.108 A final stage method must require contributors to provide financial benchmark data based on the exercise of expert judgement by the contributors.

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Cessation of a licensed benchmark

- RG 268.109 Rule 2.4.1 of the administration rules provides that, where a licensee intends to cease administering or generating a licensed benchmark, the licensee must give ASIC reasonable notice and have arrangements for ensuring the orderly transition of the licensed benchmark to another administrator or the orderly cessation of the generation and administration of the licensed benchmark.
- RG 268.110 This rule is intended to give ASIC reasonable time to consider the likely impact of the transfer or cessation of a licensed benchmark, and to consult with other regulators, such as the Reserve Bank of Australia (RBA), where appropriate. As such, we expect the licensee to informally discuss any consideration of cessation with ASIC as early in the process as possible. We also expect licensees to provide formal notice as soon as practicable after forming the intention or making the decision to cease or transfer administration and generation of the licensed benchmark.
- RG 268.111 Orderly transition or cessation of the generation or administration of a licensed benchmark requires a licensee to consider the impact on financial contracts or products that reference the licensed benchmark, at least where these contracts or products are within the scope of the intended use of the licensed benchmark. The transition arrangements plan should address:
- (a) whether the contracts or products can be amended to refer to another financial benchmark and whether the other financial benchmark is a viable alternative; and
 - (b) whether there is enough time for the contracts or products to be amended before the proposed cessation date.

Market announcements

- RG 268.112 The licensee should have clear written policies and procedures to address the possible cessation of a licensed benchmark. Arrangements should consider the types of communication the licensee needs to provide in the event of cessation. Appropriate communication should provide transparency and clarity for all market participants. This is particularly important because the communication and announcements made by the licensee may trigger clauses in certain contracts to replace the ceasing benchmark with an alternative reference rate.
- RG 268.113 We consider that market announcements about the cessation of a licensed benchmark should:
- (a) be timely and relevant, using clear and unambiguous language;
 - (b) provide relevant information about the cessation arrangements that the administrator has in place;
 - (c) be distributed through appropriate communication channels;

- (d) provide sufficient time for market participants to adequately prepare for the transition or cessation process;
- (e) consider any relevant consultation outcomes; and
- (f) consider appropriate replacement benchmarks where available.

RG 268.114 All relevant market announcements about the cessation of a licensed benchmark should be made by the licensee in consultation with ASIC before publication. To provide additional clarity and ensure appropriate and timely information has been provided to all market participants, we expect to make announcements in addition to the key market announcements made by the licensee.

RG 268.115 ASIC announcements will be published as updates and media releases on the ASIC website. These announcements will cover but will not be limited to the following key events:

- (a) *Where the administrator advises of a cessation date:* We will publish a statement confirming:
 - (i) the licensee has formally notified ASIC of its intention to stop generating a licensed benchmark, including the cessation arrangements as per Rule 2.4.1(b)(ii) of the administration rules;
 - (ii) our support for the licensed benchmark until the cessation effective date; and
 - (iii) whether we have extended the transition period under Rule 2.1.1 of the compelled rules (including the publication of the notice simultaneously).
- (b) *The index cessation event on the last publication date of the licensed benchmark:* We will publish a statement to confirm that the licensee has released a formal market notification to announce the permanent cessation and the last publication date of the licensed benchmark.

Guidelines or code of conduct on the responsibilities of contributors

RG 268.116 Rule 2.5.1 of the administration rules requires a licensee to have written guidelines that govern the obligations of contributors to the licensed benchmark. To meet this requirement, a licensee may have two or more sets of policies or guidelines that jointly comprise the written guidelines. The form of the written guidelines should reflect the relationship the licensee has with the contributors. For example, where financial benchmark data is obtained from commercial vendors, the contract governing the supply of data could comprise the written guidelines.

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- RG 268.117 For a submission-based benchmark, where the submitters can exercise discretion or expert judgement, the written guidelines must govern the way in which submitters exercise expert judgement or discretion.
- RG 268.118 Rule 2.5.1(3) of the administration rules requires the licensee to monitor compliance by each contributor with the written guidelines. The way in which the licensee monitors compliance will depend on the type and nature of the benchmark as well as its relationship with the contributors. However, monitoring should be ongoing and investigative in order to determine whether each contributor is complying with the written guidelines. We expect that if the licensee has reason to suspect that a person has committed, is committing or is about to commit a contravention of the written guidelines, the licensee will investigate the action and consider if any further action is necessary. Where appropriate, that further action should include a referral of the activity in question to ASIC.

Note: See Rule 2.2.3(2)(f) of the administration rules. Where suspicious activity in relation to the financial benchmark data used to generate the financial benchmark is detected by the licensee, there must be procedures for reporting this activity to ASIC.

Content of written guidelines for all licensed benchmarks

- RG 268.119 Written guidelines for all licensed benchmarks (not just submission-based benchmarks) should meet a number of minimum requirements. They must:
- (a) apply to all hierarchies of financial benchmark data and data contribution, including submission;
 - (b) provide a clear description of the financial benchmark data to be provided and how it is required to be provided;
 - (c) identify the entities—and where necessary the persons or roles—that may contribute financial benchmark data;
 - (d) set out procedures and controls to reasonably verify:
 - (i) the identity of the contributor; and
 - (ii) the accuracy and completeness of financial benchmark data from a contributor; and
 - (e) set out the controls a contributor is required to establish, including:
 - (i) procedures for contributing financial benchmark data, including requirements to identify whether financial benchmark data meets the licensee's requirements;
 - (ii) any requirement to validate financial benchmark data before it is provided to the licensee;
 - (iii) record-keeping policies;
 - (iv) requirements to manage conflicts of interest;

- (v) requirements to report erroneous or suspicious financial benchmark data; and
- (vi) where discretion may be used in contributing financial benchmark data, policies on the use of discretion.

RG 268.120 Examples of controls a contributor could be required to establish are:

- (a) in order to manage conflicts of interest—physical, technological and structural segregation of persons involved in the activity which results in providing data or information to the administrator, where doing so is necessary to manage conflicts of interest;
- (b) guidance, training and testing of persons on the appropriate procedures for the activity which results in providing data or information to the administrator. This training should be performed before a person becomes involved in the activity which results in providing data or information to the administrator. Guidance could specify that only recorded communication channels are permitted to be used;
- (c) real-time and event-driven monitoring, and periodic historic review of the communications and trading activities of persons involved in the activity which results in providing data or information to the administrator. The monitoring parameters should be reviewed regularly; and
- (d) record-keeping policies which require that all data relating to the financial benchmark data that is contributed to the licensee should be recorded and retained in an easily accessible format for a period of seven years.

Content of code of conduct for submission-based benchmarks

RG 268.121 For submission-based benchmarks, where the submitters can exercise discretion or expert judgement, the code of conduct for submitters required by this rule should address:

- (a) the selection of inputs;
- (b) who may submit data and information to the licensee;
- (c) quality control procedures to verify the identity of a submitter;
- (d) for employees or officers that report data or information to the licensee:
 - (i) procedures to verify the authorisation of the employees; and
 - (ii) the criteria applied to the employees;
- (e) policies to encourage submitters to submit all relevant data and not to withdraw from surveys or panels;

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- (f) submitters' internal systems and controls, which should include:
 - (i) procedures for determining eligible inputs, validating inputs, internal review and signoff of inputs, and submitting inputs;
 - (ii) procedures to detect, evaluate and report suspicious inputs or transactions (including intergroup transactions), and to ensure the bona fide nature of such inputs or transactions;
 - (iii) policies detailing the use of expert judgement;
 - (iv) record-keeping policies, including for use of expert judgement;
 - (v) training, including on applicable laws and regulations;
 - (vi) suspicious submission reporting;
 - (vii) roles and responsibilities of key personnel and accountability lines;
 - (viii) whistleblower policies; and
 - (ix) policies and procedures for managing conflicts of interest; and
- (g) requirements for submitters such as banks to manage conflicts of interest through:
 - (i) policies and procedures to prohibit or otherwise impose robust controls on when front office staff may be permitted to submit inputs to the licensee;
 - (ii) physical separation of staff and reporting lines;
 - (iii) the identification, mitigation or avoidance of potential incentives to manipulate or otherwise influence financial benchmark data; and
 - (iv) the identification, mitigation or avoidance of conflicts of interest arising from any other business of the submitter or its affiliates.

Certain commodity benchmarks

RG 268.122 If a commodity benchmark is within the intended scope of the [IOSCO PRA principles](#) (PDF 423 KB), the licensed administrator of that benchmark may elect to comply with the requirements set out in those principles instead of the requirements for a code of conduct in RG 268.121. The relevant principles relate to:

- (a) the integrity of the reporting process;
- (b) assessors; and
- (c) supervision of assessors.

E Transparency, access and accountability

Key points

This section explains the licensee's obligations relating to:

- disclosure that must be provided by a licensee about the licensed benchmark;
- reasonable and non-discriminatory access to the licensed benchmark, including pricing; and
- complaints and record-keeping.

Disclosure about licensed benchmarks

RG 268.123 Rule 2.6.1 of the administration rules requires a licensee to publicly disclose adequate information to enable its users and contributors to:

- (a) understand how the licensed benchmark is determined;
- (b) assess how well the licensed benchmark measures the relevant interest, market or economic reality it is intended to measure; and
- (c) assess whether it is appropriate to be used as a reference for a particular financial contract or product.

RG 268.124 Licensees may provide disclosure by issuing a public benchmark statement or by making documents (including guidelines, a code of conduct, rules and key procedures) available and easily accessible to users and contributors.

RG 268.125 To comply with this rule, licensees should ensure the information disclosure provides a clear explanation of:

- (a) the interest, market or economic reality the licensed benchmark is intended to measure;
- (b) the rationale for adopting the benchmark method and procedures for reviewing and approving the method;
- (c) how the licensed benchmark is determined, including:
 - (i) if two or more methods of benchmark determination may be used, when and in what circumstances each method will be used; and
 - (ii) the types of financial benchmark data that may be used, the priority given to each type of financial benchmark data, the minimum data needed to determine the licensed benchmark, and when a model or extrapolation may be used;
- (d) for an index benchmark, the procedure for rebalancing the constituents of the index;

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- (e) how errors in financial benchmark data or in the benchmark determination will be dealt with, including when the licensed benchmark will be re-determined;
- (f) the process for review and approval of a method; and
- (g) when the licensee may consult on a proposed material change to the licensed benchmark and how users will be informed of the change.

RG 268.126 Where discretion may be used in determining the licensed benchmark, the licensee should ensure published information:

- (a) identifies in what circumstances and by whom discretion may be exercised in the benchmark determination process; and
- (b) sets out the criteria or rules, and controls, that apply to the exercise of discretion, including how an exercise of discretion may be evaluated.

RG 268.127 Information disclosure should also, to the extent appropriate:

- (a) address the circumstances in which the licensed benchmark may become unreliable in measuring the relevant interest, market or economic reality;
- (b) outline the procedures that may be used to determine the licensed benchmark when financial benchmark data identified in the method may be insufficient, inaccurate or unreliable—for example, in stressed, illiquid or fragmented markets;
- (c) identify the potential limitations of the licensed benchmark in such periods; and
- (d) inform users that events or factors may require changes to or the cessation of the licensed benchmark, which may have an impact on financial products and contracts that reference the licensed benchmark.

RG 268.128 To ensure the information disclosed remains current, a licensee must:

- (a) review the information disclosure when material changes are made to the administration of the licensed benchmark; and
- (b) update the information disclosure as necessary.

Reasonable and non-discriminatory access

RG 268.129 Rule 2.6.2 of the administration rules requires a licensee to have and apply written procedures for access to the licensed benchmark that do not unfairly discriminate between users of the benchmark and provide for any charges for access to the benchmark to be reasonable and non-discriminatory.

RG 268.130 If charges apply for access to the licensed benchmark, we expect licensees to have policies and procedures covering:

- (a) the factors that the licensee would consider when reviewing pricing and pricing structure;

- (b) a mechanism for users to seek a review and/or to make a complaint about pricing, which is clearly communicated to users; and
- (c) a robust process for reviewing and setting reasonable and non-discriminatory prices, and identifying and resolving issues, including pricing structure.

Record-keeping

RG 268.131 Rule 2.7.1(1) of the administration rules requires a licensee to create and maintain records that enable it to demonstrate compliance with the requirements of the administration rules. We consider this would include—for each occasion the benchmark is generated—records of:

- (a) financial benchmark data provided to the licensee in connection with the generation of the benchmark on that occasion, including any financial benchmark data the licensee did not use in generating the benchmark;
- (b) the contributors that provided the financial benchmark data referred to in RG 268.131(a);
- (c) the method used to generate the benchmark;
- (d) if applicable to the method referred to in RG 268.131(c):
 - (i) the relevant persons who exercised expert judgement or discretion in generating the licensed benchmark; and
 - (ii) the manner in which the expert judgement or discretion was exercised on that occasion;
- (e) any use of a different kind of financial benchmark data or use of financial benchmark data in a different manner;
- (f) any complaints received in connection with the generation of the licensed benchmark; and
- (g) any audits, reviews or investigations of errors, discrepancies or suspicious activity in connection with the generation of the licensed benchmark.

Complaints

RG 268.132 Rule 2.7.2 of the administration rules requires a licensee to maintain and publish appropriate written procedures for investigating complaints, and to investigate complaints in a timely manner and respond to complaints as soon as practicable.

RG 268.133 The written procedures should:

- (a) allow complaints to be raised in a user-friendly manner;
- (b) include an escalation process; and
- (c) enable investigations to be conducted independently of any personnel who may be, or may have been, involved in the subject matter.

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F Compulsion powers

Key points

This section explains how we may use our compulsion powers provided under the compelled rules.

Overview

RG 268.134 Rules 2.1.1 and 3.1.1 of the compelled rules respectively provide that ASIC may, by written notice, compel:

- (a) a licensed administrator of a significant benchmark to:
 - (i) continue to generate or administer the significant benchmark;
 - (ii) generate or administer the significant benchmark in a particular way;
 - (iii) change the method used to generate or administer the significant benchmark; or
 - (iv) specify other requirements the licensee must comply with; and
- (b) a contributor to contribute data or information to:
 - (i) the licensed administrator for the generation or administration of a significant benchmark; or
 - (ii) ASIC for purposes related to the generation or administration of the significant benchmark.

RG 268.135 We may only compel a contributor to contribute to a significant benchmark or to ASIC if it has previously contributed to that benchmark.

RG 268.136 We may only use these compulsion powers by issuing a notice if we reasonably believe it is in the public interest to do so. We consider the public interest test is only likely to be satisfied for licensed administrators of significant benchmarks and for contributors to significant benchmarks in specific circumstances. This section sets out when we may consider it is in the public interest to use our compulsion powers.

Requirement to continue administering a significant benchmark

RG 268.137 Consistent with key overseas regimes, including the EU benchmark regulatory regime, the public interest test may be satisfied where the licensee intends to cease administering a significant benchmark and we consider it is

necessary to require the licensee to continue administering the significant benchmark to help mitigate material market disruption.

RG 268.138 This may be the case if we consider that requiring the licensee to continue to administer the benchmark will help to achieve:

- (a) an orderly transition to another benchmark administrator, without disrupting the operation of the significant benchmark; or
- (b) an orderly cessation of the significant benchmark, including giving reasonable time for users to amend financial contracts that reference the significant benchmark.

RG 268.139 A trigger for ASIC considering whether to impose this requirement may be where a licensee notifies ASIC that it intends to cease administration of a significant benchmark under Rule 2.4.1 of the administration rules.

Requirement to provide submissions to the administrator of the BBSW

RG 268.140 We may consider imposing a requirement for BBSW contributors to provide information or data to the administrator of the BBSW using the administrator's final stage method. We envisage doing this in consultation with the RBA, and only if it is necessary to support market functioning.

RG 268.141 The public interest test for giving a notice under the compelled benchmark rules in relation to the BBSW may be satisfied if we believe the BBSW will not be able to be determined. Specifically, the public interest test may be satisfied if:

- (a) ASIC and the RBA consider it is likely the BBSW will not be able to be determined using the calculation mechanisms set out in the BBSW method (other than the final stage method); or
- (b) the administrator of the BBSW informs ASIC or the RBA that it is likely to be unable to continue to administer the BBSW (this could be the case where the administrator is using a calculation method that can only be used for two days); or
- (c) ASIC and the RBA consider that it is likely the BBSW will not be able to be generated and published without ASIC issuing a written notice.

RG 268.142 The public interest test, as detailed, would only be likely to be met in circumstances where market-based incentives have failed. There are competing policy reasons for requiring a narrower or wider group of contributors to provide submissions to the BBSW. On balance, we consider it would be appropriate for this requirement to be imposed on BBSW

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contributors that are appointed or are eligible to be appointed as prime banks.

Note: A prime bank means an entity appointed by, or eligible to be appointed by, the administrator of the BBSW as a prime bank in accordance with the administrator's prime bank conventions.

RG 268.143 We would balance the need to support market functioning and mitigate material market disruption with the need to enhance the likelihood that the prime banks would be able to comply with a requirement to provide submissions to the BBSW. We think this balance may be struck by requiring the provision of submissions using the final stage method that the administrator of the BBSW is required to maintain.

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Key terms

Term	Meaning in this document
administration rules	<i>ASIC Financial Benchmark (Administration) Rules 2018</i>
ASIC	Australian Securities and Investments Commission
BBSW	The bank bill swap rate, a short-term money market benchmark interest rate, as specified in a benchmark administrator licence under s908BC(1) of the Corporations Act
benchmark administrator licence	A benchmark administrator licence granted under s908BC(1) of the Corporations Act that authorises a person to administer a specified financial benchmark
benchmark administrator licensee	The holder of a benchmark administrator licence
CFR	Council of Financial Regulators
compelled rules	<i>ASIC Financial Benchmark (Compelled) Rules 2018</i>
contributor	An entity whose activities result in the provision of data or information to a holder of a benchmark administrator licence for the generation or administration of a financial benchmark specified in that licence
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CP 292 (for example)	An ASIC consultation paper (in this example numbered 292)
expert judgement, discretion	The use of judgement in relation to the use of data or information in determining a benchmark. Includes extrapolating from previous or related transactions, adjusting values for specified factors, or adjusting the weighting given to particular data or information
financial benchmark	Has the meaning given in s908AB of the Corporations Act
FMI	Financial market infrastructure
FMI banning order	A banning order made by ASIC under s853H of the Corporations Act against an individual, prohibiting the individual from controlling an FMI licensee or performing any functions of a core officer of an FMI licensee

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Term	Meaning in this document
FMI licensee	Refers to a market licensee, clearing and settlement facility licensee, derivative trade repository licensee or benchmark administrator licensee (collectively FMI licensee)
IOSCO	International Organization of Securities Commissions
IOSCO benchmarks principles	IOSCO <i>Principles for financial benchmarks</i>
IOSCO PRA principles	IOSCO <i>Principles for oil price reporting agencies</i>
Pt 5B.2 (for example)	A part of the Corporations Act (in this example numbered 5B.2), unless otherwise specified
RBA	Reserve Bank of Australia
REP 440 (for example)	An ASIC report (in this example numbered 440)
RG 54 (for example)	An ASIC regulatory guide (in this example numbered 54)
Rule 2.1.1 (for example)	A rule of either the administration rules or the compelled rules (in this example numbered 2.1.1), as specified
s908BA (for example)	A section of the Corporations Act (in this example numbered 908BA), unless otherwise specified
significant benchmark	A financial benchmark that ASIC has declared to be a significant financial benchmark under s908AC(2) of the Corporations Act
voting power	Has the meaning given in s610 of the Corporations Act

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Related information

Headnotes

application, benchmark administrator licence, code of conduct, compulsion, conflict of interest, controls, exemption, financial benchmark, governance, IOSCO principles, method, outsourcing, relief, resources, significant financial benchmark

Regulatory guides

[RG 5](#) *Relevant interests and substantial holding notices*

[RG 54](#) *Principles for cross-border financial regulation*

Legislation

ASIC Supervisory Cost Recovery Levy Act 2017

Corporations Act, Pts 5B.2, 7.4, 7.5B; s601AA, 601AB, 852DA–852DC, 852DG, 852DH, 852DL–852DN, 852DQ, 852DR, 853A, 853C, s853D, 853H, 853K, 908AB, 908AD, 908AF, 908BA, 908BC, 908BD, 908BG, 908BI, 908BO, 908BP, 908BV, 908BW, 908BWA, 908CA, 908CD, 1705L

Corporations Regulations 2001

National Consumer Credit Protection Act 2009
Treasury Laws Amendment (2017 Measures No. 5) Act 2018

[Explanatory Memorandum to the Treasury Laws Amendment \(Financial Market Infrastructure and Other Measures\) Bill 2024](#)

Financial benchmark rules

[ASIC Financial Benchmark \(Administration\) Rules 2018](#), Rules 2.1.1–2.1.7, 2.2.1–2.2.5, 2.4.1, 2.5.1, 2.6.1–2.6.2, 2.7.1–2.7.2

[ASIC Financial Benchmark \(Compelled\) Rules 2018](#), Rules 2.1.1, 3.1.1

Other legislative instruments

[ASIC Corporations \(Significant Financial Benchmarks\) Instrument 2018/420](#)

Other documents

IOSCO, [Principles for financial benchmarks](#)

IOSCO, [Principles for oil price reporting agencies](#)

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