

PRESS RELEASE

Report finds Asia struggling to meet EU Benchmarks Regulation deadline

Hong Kong, 30 October 2018 - ASIFMA, the financial industry's leading regional trade association, today released a new report "The EU Benchmarks Regulation and Asia: Hurdles Rise as the 2020 Deadline Nears." The report was co-authored by member firm Herbert Smith Freehills.

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. We are thus rapidly approaching 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. 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 survey by ASIFMA and Herbert Smith Freehills of benchmark administrators across the Asia-Pacific (APAC) 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, we are deeply concerned that very few non-EU administrators will successfully obtain registration by the 2020 deadline.

DEVELOPING ASIAN CAPITAL MARKETS

"As set out in our earlier reports, if large numbers of APAC 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 APAC region are likely to suffer significant impact," said William Hallatt, Partner at Herbert Smith Freehills.

This impact includes reducing 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.

For media queries, please contact:

Corliss Ruggles, Head of Communications, ASIFMA

Tel: +852 2531 6530 / +852 9359 6996

Email: cruggles@asifma.org

Sally Greig, Head of Communications, Asia, Herbert Smith Freehills

Tel +852 2101 4624 /+852 9815 4096

Email: Sally.Greig@hsf.com

About ASIFMA

[ASIFMA](#) is an independent, regional trade association with over 100 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative and competitive Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the [GFMA](#) alliance with [SIFMA](#) in the United States and [AFME](#) in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region. More information about ASIFMA can be found at: www.asifma.org.

About Herbert Smith Freehills

Operating from 27 offices across Asia Pacific, EMEA and North America, [Herbert Smith Freehills](#) is at the heart of the new global business landscape. It provides premium quality, full-service legal advice on dispute resolution, projects and transactions to many of the world's most important organisations. The firm has expertise across industry sectors, including banks, consumer products, energy, financial buyers, infrastructure and transport, mining, pharmaceuticals and healthcare, real estate, TMT, and manufacturing and industrials.

With a 30-year history in Asia, Herbert Smith Freehills has over 300 lawyers and legal professionals in the region, advising clients on complex corporate, disputes and finance matters from offices in Bangkok, Beijing, Hong Kong, Jakarta, Kuala Lumpur, Seoul, Shanghai, Singapore and Tokyo.