

NEW PART VIAA (FINANCIAL BENCHMARKS) OF THE SFA

DIVISION 5 (POWER TO DIRECT SUBMISSIONS)

DISCLAIMER: This version of the amendments is in draft form and subject to change. It is also subject to review by the Attorney-General's Chambers. Sections in this Part have been numbered beginning with "1", subject to final decision on the placement of this Part within the SFA.

SECURITIES AND FUTURES ACT

(CHAPTER 289)

PART I

PRELIMINARY

[.....]

PART VI

CONDUCT OF BUSINESS

[.....]

PART VIAA

FINANCIAL BENCHMARKS

[.....]

Division 5 – Power to Direct Submissions

Power to direct submissions to designated benchmarks

39 —(1) The Authority may by notice in writing or by regulations, direct any person to provide information in relation to a designated benchmark to an authorised benchmark administrator or exempt benchmark administrator, subject to such conditions as the Authority considers appropriate, having regard to the robustness of the designated benchmark, market functionality, and such other factors as the Authority considers relevant, the Authority is of the view that such a direction is necessary .

(2) For the purposes of [subsection \(1\)](#), in determining the persons to be directed, the Authority shall take into consideration:

- (a) the size and extent of the person’s actual and potential participation in the market that the designated benchmark seeks to measure;
- (b) the person’s expertise and ability to provide input data of the necessary quality;

- (c) the selection criteria of the holder of the benchmark administration license or exempt benchmark administrator administering the designated benchmark; or
- (d) such other factors as the Authority considers relevant.

(3) Any person who contravenes any direction issued by the Authority to him under [subsection \(1\)](#) or fails to comply with any condition under [subsection \(1\)](#) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000, and in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(4) The Authority shall not exercise its powers under sub-section (1) without giving the person an opportunity to be heard.

(5) A person who is aggrieved by the exercise of the Authority's powers under [sub-section \(1\)](#) may, within 30 days after the person is notified of the direction, appeal to the Minister, whose decision shall be final.

(6) Notwithstanding [sub-section \(5\)](#), pending the determination of the appeal by the Minister, a person shall comply with any directions imposed by the Authority under [sub-section \(1\)](#), unless the Authority directs otherwise.

(7) The Authority may, at any time, by notice in writing or by regulations, withdraw a direction made under [sub-section \(1\)](#).