

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2020/1816

of 17 July 2020

supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the explanation in the benchmark statement of how environmental, social and governance factors are reflected in each benchmark provided and published

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Article 27 (2b) thereof,

Whereas:

- (1) The Paris Agreement adopted under the United Nations Framework Convention on Climate Change, approved by the Union on 5 October 2016 ⁽²⁾ (the 'Paris Agreement'), aims to strengthen the response to climate change, among other means by making investment flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
- (2) On 11 December 2019, the Commission adopted its Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'The European Green Deal' ⁽³⁾. That European Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. The implementation of the European Green Deal requires that investors are offered clear, long-term signals to avoid stranded assets and to raise sustainable finance.
- (3) Regulation (EU) 2016/1011 requires benchmark administrators to explain in the benchmark statement how environmental, social and governance ('ESG') factors are reflected in each benchmark or family of benchmarks provided and published.
- (4) Different ways of explaining how ESG factors are reflected would lead to a lack of comparability between benchmarks and a lack of clarity as to the scope and objectives of the ESG factors. It is therefore necessary to specify the content of that explanation and to lay down a template to be used.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁽³⁾ COM(2019) 640 final.

- (5) In order to better adapt the information for investors, the requirement to explain how ESG factors are reflected in each benchmark or family of benchmarks provided and published should take into account the underlying assets on which benchmarks are based. This Regulation should not apply to benchmarks which do not have underlying assets that have an impact on climate change such as interest rate benchmarks and foreign exchange benchmarks.
- (6) The explanation on how ESG factors are reflected should display the corresponding score of the relevant ESG factors *vis-à-vis* the benchmark, at an aggregated weighted average value. Such score should not be disclosed for each constituent of the benchmarks. Where relevant and appropriate, benchmark administrators should be able to provide additional ESG information.
- (7) Due to their characteristics and objectives, specific disclosure requirements should be set out for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, and for significant bond and equity benchmarks.
- (8) In order to provide benchmark users with accurate and up-to-date information, benchmark administrators should update the information provided to reflect any changes made to the benchmark statement, and should indicate the reason and the dates at which the information was updated,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'equity' means listed shares;
- (b) 'fixed income' means listed debt securities, other than those issued by a sovereign issuer;
- (c) 'sovereign debt' means debt securities issued by a sovereign issuer.

Article 2

Explanation of how ESG factors are reflected in each benchmark or family of benchmarks

1. Benchmark administrators shall explain in the benchmark statement, using the template laid down in Annex I, how the environmental, social and governance (ESG) factors listed in Annex II are reflected in each benchmark or family of benchmarks they provide and publish.

The requirement set out in the first subparagraph shall not apply to interest rate and foreign exchange benchmarks.

2. The explanation referred to in paragraph 1 shall include the score of the ESG factors *vis-à-vis* the corresponding benchmark and family of benchmark, at an aggregated weighted average value.

3. For individual benchmarks, benchmark administrators may, rather than providing all the information required by the template laid down in Annex I to this Regulation, replace that information by a hyperlink included in the benchmark statement, to a website that contains all that information.

4. Where benchmarks blend different underlying assets, benchmark administrators shall explain how ESG factors are reflected for each of the underlying assets.

5. Benchmark administrators shall include in the explanation provided a reference to the sources of data and standards used for the ESG factors disclosed.
6. Benchmark administrators that disclose additional ESG factors in accordance with Article 1(4) of Commission Delegated Regulation (EU) 2020/1817 ⁽⁴⁾ shall include the score of those additional ESG factors.

Article 3

Update of the explanation provided

Benchmark administrators shall update the explanation provided whenever significant changes relating to the ESG factors occur and in any case on an annual basis. They shall state the reasons for the update.

Article 4

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 July 2020.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁴⁾ Commission Delegated Regulation (EU) 2020/1817 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum content of the explanation on how environmental, social and governance factors are reflected in the benchmark methodology (See page 12 of this Official Journal).

ANNEX I

**TEMPLATE FOR EXPLAINING HOW ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG)
FACTORS ARE REFLECTED IN THE BENCHMARK STATEMENT**

**EXPLANATION OF HOW ESG FACTORS ARE REFLECTED IN THE
BENCHMARK STATEMENT**

SECTION 1 – CONSIDERATION OF ESG FACTORS

Item 1. Name of the benchmark administrator.	
Item 2. Type of benchmark or family of benchmarks. <i>Choose the relevant underlying asset from the list provided in Annex II.</i>	
Item 3. Name of the benchmark or family of benchmarks.	
Item 4. Are there in the portfolio of the benchmark administrator any EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks, benchmarks that pursue ESG objectives or benchmarks that take into account ESG factors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Item 5. Does the benchmark or family of benchmarks pursue ESG objectives?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Item 6. Where the response to Item 5 is positive, provide below the details (score) in relation to the ESG factors listed in Annex II for each family of benchmarks at aggregated level. The ESG factors shall be disclosed at an aggregated weighted average value at the level of the family of benchmarks.	
(a) List of combined ESG factors:	Details on each factor:
(b) List of environmental factors:	Details on each factor:
(c) List of social factors:	Details on each factor:
(d) List of governance factors:	Details on each factor:
Item 7. Where the response to Item 5 is positive, provide below the details (score) for each benchmark, in relation to the ESG factors listed in Annex II, depending on the relevant underlying asset concerned. Alternatively, all of this information may be provided in the form of a hyperlink to a website of the benchmark administrator included in the benchmark statement. The information on the website shall be easily available and accessible. Benchmark administrators shall ensure that information published on their website remains available for five years. The score of the ESG factors shall not be disclosed for each constituent of the benchmark, but shall be disclosed at an aggregated weighted average value of the benchmark.	
(a) List of combined ESG factors:	Details on each factor:
(b) List of environmental factors:	Details on each factor:
(c) List of social factors:	Details on each factor:
(d) List of governance factors:	Details on each factor:
Hyperlink to the information on ESG factors for each benchmark:	

Item 8. Data and standards used

(a) Description of data sources used to provide information on the ESG factors in the benchmark statement. <i>Describe how the data used to provide information on the ESG factors in the benchmark statement are sourced and whether, and to what extent, data are estimated or reported.</i>	
(b) Reference standards. <i>List the supporting standards used for the reporting under item 6 and/or item 7.</i>	

SECTION 2 – ADDITIONAL DISCLOSURE REQUIREMENTS FOR EU CLIMATE TRANSITION AND EU PARIS-ALIGNED BENCHMARKS

Item 9. Where a benchmark is labelled as ‘EU Climate Transition Benchmark’ or ‘EU Paris-aligned Benchmark’, benchmark administrators shall also disclose the following information:

(a) forward-looking year-on-year decarbonisation trajectory;	
(b) degree to which the IPCC decarbonisation trajectory (1,5 °C with no or limited overshoot) has been achieved on average per year since creation;	
(c) overlap between those benchmarks and their investable universe, as defined in Article 1, point (e), of Commission Delegated Regulation (EU) 2020/1818 ⁽¹⁾ , using the active share at asset level.	

SECTION 3 – DISCLOSURE OF THE ALIGNMENT WITH THE OBJECTIVES OF THE PARIS AGREEMENT

Item 10. By the date of application of this Regulation, for significant equity and bond benchmarks, EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, benchmark administrators shall also disclose the following information. By 31 December 2021, benchmark administrators shall, for each benchmark or, where applicable, each family of benchmarks, disclose the following information:

(a) Does the benchmark align with the target of reducing carbon emissions or the attainment of the objectives of the Paris Agreement;	<input type="checkbox"/> Yes <input type="checkbox"/> No
(b) the temperature scenario, in accordance with international standards, used for the alignment with the target of reducing GHG emissions or attaining of the objectives of the Paris Agreement;	
(c) the name of the provider of the temperature scenario used for the alignment with the target of reducing GHG emissions or the attainment of the objectives of the Paris Agreement;	

⁽¹⁾ Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (See page 17 of this Official Journal).

(d) the methodology used for the measurement of the alignment with the temperature scenario;	
(e) the hyperlink to the website of the temperature scenario used.	
Date on which information has last been updated and reason for the update:	

ANNEX II

ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) FACTORS TO BE CONSIDERED BY UNDELYING ASSETS OF THE BENCHMARK

Section 1

EQUITY

ESG FACTORS	DISCLOSURES
Combined ESG factors	Weighted average ESG rating of the benchmark (voluntary).
	Overall ESG rating of top ten benchmark constituents by weighting in the benchmark (voluntary).
Environmental	<p>Weighted average environmental rating of the benchmark (voluntary).</p> <p>Exposure of the benchmark portfolio to renewable energy as measured by capital expenditures (CapEx) in those activities (as a share of total CapEx by energy companies included in the portfolio) (voluntary).</p> <p>Exposure of the benchmark portfolio to climate-related physical risks, measuring the effects of extreme weather events on companies' operations and production or on the different stages of the supply chain (based on issuer exposure) (voluntary).</p> <p>Degree of exposure of the portfolio to the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽¹⁾ as a percentage of the total weight in the portfolio.</p> <p>Greenhouse gas (GHG) intensity of the benchmark.</p> <p>Percentage of GHG emissions reported versus estimated.</p> <p>Exposure of the benchmark portfolio to companies the activities of which fall under Divisions 05 to 09, 19 and 20 of Annex I to Regulation (EC) No 1893/2006.</p> <p>Exposure of the benchmark portfolio to activities included in the environmental goods and services sector, as defined in Article 2, point (5) of Regulation (EU) No 691/2011 of the European Parliament and of the Council ⁽²⁾.</p>
Social	<p>Weighted average social rating of the benchmark (voluntary).</p> <p>International treaties and conventions, United Nations principles or, where applicable, national law used in order to determine what constitutes a 'controversial weapon'.</p> <p>Weighted average percentage of benchmark constituents in the controversial weapons sector.</p> <p>Weighted average percentage of benchmark constituents in the tobacco sector.</p> <p>Number of benchmark constituents subject to social violations (absolute number and relative divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law.</p> <p>Exposure of the benchmark portfolio to companies without due diligence policies on issues addressed by the fundamental International Labor Organisation Conventions 1 to 8.</p>

⁽¹⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

⁽²⁾ Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts (OJ L 192, 22.7.2011, p. 1).

ESG FACTORS	DISCLOSURES
	<p>Weighted average gender pay gap.</p> <p>Weighted average ratio of female to male board members.</p> <p>Weighted average ratio of accidents, injuries, fatalities.</p> <p>Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws.</p>
Governance	<p>Weighted average governance rating of the benchmark (voluntary).</p> <p>Weighted average percentage of board members who are independent.</p> <p>Weighted average percentage of female board members.</p>

Section 2

FIXED INCOME

ESG FACTORS	DISCLOSURES
Combined ESG factors	<p>Weighted average ESG rating of the benchmark (voluntary).</p> <p>Overall ESG rating of top ten benchmark constituents by weighting in the benchmark (voluntary).</p>
Environmental	<p>Weighted average environmental rating of the benchmark (voluntary).</p> <p>Exposure of the benchmark portfolio to renewable energy as measured by capital expenditures (CapEx) in those activities (as a share of total CapEx by energy companies included in the portfolio) (voluntary).</p> <p>Exposure of the benchmark portfolio to climate-related physical risks, measuring the effects of extreme weather events on companies' operations and production or on the different stages of the supply chain (based on issuer exposure) (voluntary).</p> <p>Degree of exposure of the portfolio to the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 as a percentage of the total weight in the portfolio.</p> <p>GHG intensity of the benchmark.</p> <p>Percentage of reported versus estimated emissions.</p> <p>Exposure of the benchmark portfolio to companies the activities of which fall under Divisions 05 to 09, 19 and 20 of Annex I to Regulation (EC) No 1893/2006.</p> <p>Percentage of green bonds in the benchmark portfolio.</p>
Social	<p>Weighted average social rating of the benchmark (voluntary).</p> <p>International treaties and conventions, United Nations principles or, where applicable, national law used in order to determine what constitutes a 'controversial weapon'.</p> <p>Weighted average percentage of benchmark constituents in the controversial weapons sector.</p> <p>Weighted average percentage of benchmark constituents in the tobacco sector.</p>

ESG FACTORS	DISCLOSURES
	<p>Number of benchmark constituents subject to social violations (absolute number and relative divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles or, where applicable, national law.</p> <p>Exposure of the benchmark portfolio to companies without due diligence policies on issues addressed by Conventions 1 to 8 of the International Labour Organisation.</p> <p>Weighted average gender pay gap.</p> <p>Weighted average ratio of female to male board members.</p> <p>Weighted average ratio of accidents, injuries, fatalities.</p> <p>Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws.</p>
Governance	Weighted average governance rating of the benchmark (voluntary).

Section 3

SOVEREIGN DEBT

ESG FACTORS	DISCLOSURES
Combined ESG factors	<p>Weighted average ESG rating of the benchmark (voluntary).</p> <p>Overall ESG rating of top ten benchmark constituents by weighting in the benchmark (voluntary).</p> <p>The percentage of underlying fund management companies signed up to international standards.</p>
Environmental	<p>Weighted average environmental rating of the benchmark (voluntary).</p> <p>Exposure of the benchmark portfolio to climate-related physical risks, measuring the effects of extreme weather events on companies' operations and production or on the different stages of the supply chain (based on issuer exposure) (voluntary).</p> <p>Top ten and bottom ten constituents by exposure to climate-related physical risks (voluntary).</p> <p>GHG intensity of the benchmark.</p> <p>Percentage of reported versus estimated emissions.</p> <p>Percentage of green bonds in the benchmark portfolio.</p>
Social	<p>Weighted average social rating of the benchmark (voluntary).</p> <p>Number of benchmark constituents subject to social violations (absolute number and relative number divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law.</p> <p>Average human rights performance of the issuers (including a quantitative indicator and the methodology used to calculate it).</p> <p>Average income inequality score, measuring the distribution of income and economic inequality among the participants in a particular economy (including a quantitative indicator and the methodology used to calculate it).</p>

ESG FACTORS	DISCLOSURES
	Average freedom of expression score measuring the extent to which political and civil society organizations can operate freely (including a quantitative indicator and the methodology used to calculate it).
Governance	<p>Weighted average governance rating of the benchmark (voluntary).</p> <p>Average corruption score measuring the perceived level of public sector corruption (including a quantitative indicator and the methodology used to calculate it).</p> <p>Average political stability score, measuring the likelihood that the current regime will be overthrown by the use of force (including a quantitative indicator and the methodology used to calculate it).</p> <p>Average rule of law score, based on the absence of corruption, respect for fundamental rights, and the state of civil and criminal justice (including a quantitative indicator and the methodology used to calculate it).</p>

Section 4

COMMODITY

ESG FACTORS	DISCLOSURES
Environmental	<p>Degree of exposure of the underlying commodities to climate-related physical risks, measuring the effects of extreme weather events on companies' operation and production or on the different stages of the supply chain (low, moderate or high) (voluntary).</p> <p>The methodology used to calculate the climate-related physical risks (voluntary).</p> <p>Degree of exposure of the underlying commodities to climate-transition risks, measuring the financial impacts resulting from the effects of the implementation of a low-carbon strategies (low, moderate or high)</p>
Social	Degree of exposure of the underlying commodities to social risks (low, moderate or high).
Governance	<p>Degree of exposure of the underlying commodities to governance risks (low, moderate or high).</p> <p>Average rule of law score, based on the absence of corruption, respect for fundamental rights and the state of civil and criminal justice (including a quantitative indicator and the methodology used to calculate it).</p>

Section 5

OTHER

ESG FACTORS	DISCLOSURES
Combined ESG factors	Weighted average ESG rating of the benchmark (voluntary).
Environmental	<p>Weighted average environmental rating of the benchmark (voluntary).</p> <p>Degree of exposure of the portfolio to climate-related opportunities, measuring investment opportunities related to climate change, innovating new investment solutions, as percentage of total weight in portfolio (voluntary).</p>

ESG FACTORS	DISCLOSURES
	<p>GHG intensity of the benchmark.</p> <p>Degree of exposure of the portfolio to the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 as percentage of total weight in the portfolio.</p>
Social	<p>Weighted average social rating for the benchmark (voluntary).</p> <p>International treaties and conventions, United Nations principles or, where applicable, national law used in order to determine what constitutes a 'controversial weapon'.</p> <p>Weighted average percentage of benchmark constituents in the controversial weapons sector.</p> <p>Weighted average percentage of benchmark constituents in the tobacco sector.</p>
Governance	<p>Weighted average governance rating of the benchmark (voluntary).</p> <p>Percentage of underlying funds with stewardship policies in place, including measures for the planning and management of resources.</p>