

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****(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 13(2a) 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⁾. The 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 how for each benchmark provided and published the key elements of the benchmark methodology reflect environmental, social and governance ('ESG') factors.
- (4) Different ways of explaining for each benchmark or family of benchmarks how the key elements of the benchmark methodology reflect ESG factors, 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 set out the minimum content of such explanations as well as a template to be used.
- (5) In order to better adapt the information for investors, the requirement to explain how the key elements of the methodology reflect ESG factors for 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. In accordance with Article 19 of Regulation (EU) 2016/1011, this Regulation should not apply to commodity benchmarks.
- (6) The explanation on how key elements of the benchmark methodology reflect ESG factors should be made at an aggregated weighted average value, and should not be disclosed for each constituent of the benchmarks. Where relevant and appropriate, benchmark administrators should be able to provide additional ESG information.

⁽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.

- (7) In order to provide benchmark users with accurate and up-to-date information, benchmark administrators should update the information provided in the template to reflect any changes made to the methodology, and should indicate the reason and the dates at which the information was updated.
- (8) In order to provide investors with maximum transparency, benchmark administrators should clearly state whether they do or do not pursue ESG objectives,

HAS ADOPTED THIS REGULATION:

Article 1

Explanation on how ESG factors are reflected in the benchmark methodology

1. Benchmark administrators shall explain, using the template laid down in the Annex to this Regulation, which of the environmental, social and governance (ESG) factors referred to in Annex II to Commission Delegated Regulation (EU) 2020/1816 (*) they have taken into account when designing their benchmark methodology. They shall also explain how those factors are reflected in the key elements of that methodology, including for the selection of underlying assets, weighting factors, metrics and proxies.

The requirement set out in the first subparagraph shall not apply to commodity benchmarks.

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

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

4. Benchmark administrators may include in the explanation provided additional ESG factors and related information.

5. Benchmark administrators shall clearly state in the explanation provided whether they do or do not pursue ESG objectives.

6. Benchmark administrators shall include in the explanation provided a reference to the sources of data and standards used for each ESG factor disclosed.

Article 2

Update of the explanation provided

Benchmark administrators shall update the explanation provided whenever the benchmark methodology is changed, and in any case on an annual basis. They shall state the reasons for the update.

(*) 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 (See page 1 of this Official Journal).

*Article 3***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

ANNEX

TEMPLATE FOR EXPLAINING HOW THE KEY ELEMENTS OF THE BENCHMARK METHODOLOGY REFLECT ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) FACTORS

EXPLANATION OF HOW ESG FACTORS ARE REFLECTED IN THE KEY ELEMENTS OF THE BENCHMARK METHODOLOGY

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 to Commission Delegated Regulation (EU)2020/1816.</i>	
Item 3. Name of the benchmark or family of benchmarks.	
Item 4. Does the benchmark methodology for the benchmark or family of benchmarks take into account ESG factors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Item 5. Where the response to Item 4 is positive, please list below, for each family of benchmarks, those ESG factors that are taken into account in the benchmark methodology, taking into account the ESG factors listed in Annex II to Delegated Regulation (EU) 2020/1816. Please explain how those ESG factors are used for the selection, weighting or exclusion of underlying assets. The ESG factors shall be disclosed at an aggregated weighted average value at the level of the family of benchmarks.	
(a) List of environmental factors considered:	Selection, weighting or exclusion:
(b) List of social factors considered:	Selection, weighting or exclusion:
(c) List of governance factors considered:	Selection, weighting or exclusion:
Item 6. Where the response to Item 4 is positive, please list below, for each benchmark, those ESG factors that are taken into account in the benchmark methodology, taking into account the ESG factors listed in Annex II to Delegated Regulation (EU) 2020/1816, depending on the relevant underlying asset concerned. Please explain how those ESG factors are used for the selection, weighting or exclusion of underlying assets. 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. Alternatively, all of this information may be provided in the form of a hyperlink to a website of the benchmark administrator included in this explanation. 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.	
(a) List of environmental factors considered:	Selection, weighting or exclusion:
(b) List of social factors considered:	Selection, weighting or exclusion:
(c) List of governance factors considered:	Selection, weighting or exclusion:
Hyperlink to the information on ESG factors for each benchmark:	
Item 7. Data and standards used	
(a) Data input. (i) Describe whether the data are reported, modelled or sourced internally or externally. (ii) Where the data are reported, modelled or sourced externally, please name the third party data provider.	

(b) Verification and quality of data. <i>Describe how data are verified and how the quality of those data is ensured.</i>	
(c) Reference standards <i>Describe the international standards used in the benchmark methodology.</i>	
Date on which information has been last updated and reason for the update:	