



**2018/0180(COD)**

27.9.2018

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks  
(COM(2018)0355 – C8-0209/2018 – 2018/0180(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Neena Gill

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	21



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks  
(COM(2018)0355 – C8-0209/2018 – 2018/0180(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0355),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0209/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 3**

*Text proposed by the Commission*

(3) Sustainability and the transition to a low-carbon and climate resilient, more resource-efficient and circular economy are key in ensuring long-term competitiveness of the Union economy. Sustainability has long been at the heart of the Union project and the Union Treaties give recognition to its social and environmental dimensions.

*Amendment*

(3) Sustainability and the transition to a low-carbon and climate resilient, more resource-efficient and circular economy are key in ensuring long-term competitiveness of the Union economy. Sustainability has long been at the heart of the Union project and the Union Treaties give recognition to its social and environmental dimensions.

***There is a limited window to transform***

*the culture in the financial sector towards sustainable finance to ensure that global average temperature rise stays well below 2°C. Therefore, it is essential that new infrastructure investments are sustainable in the long term.*

Or. en

## Amendment 2

### Proposal for a regulation

#### Recital 4

*Text proposed by the Commission*

(4) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth'<sup>28</sup>, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives of that Action Plan is to reorient capital flows towards sustainable investment to achieve sustainable and inclusive growth.

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<sup>28</sup> COM(2018) 97 final.

*Amendment*

(4) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth'<sup>28</sup>, setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives of that Action Plan is to reorient capital flows towards sustainable investment to achieve sustainable and inclusive growth. ***Greater focus on limiting the impact of climate change is critical as disasters triggered by unpredictability of weather conditions have increased dramatically.***

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<sup>28</sup> COM(2018) 97 final.

Or. en

## Amendment 3

### Proposal for a regulation

#### Recital 7

*Text proposed by the Commission*

(7) Regulation (EU) 2016/1011 of the European Parliament and of the Council<sup>30</sup> establishes uniform rules for benchmarks in the Union and caters for different types

of benchmark. An increasing number of investors pursue low-carbon investment strategies and take recourse to low-carbon benchmarks to reference or measure the performance of investment portfolios.

of benchmark. An increasing number of investors pursue low-carbon investment strategies and take recourse to low-carbon benchmarks to reference or measure the performance of investment portfolios. ***The existing low carbon benchmarks are seriously prone to greenwashing. Therefore financial benchmarks should be clear and transparent and aligned with the Paris Climate Agreement commitments as implemented in Union law, as an essential tool for investors.***

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<sup>30</sup> 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 (OJ L 171, 29.6.2016, p. 1).

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<sup>30</sup> 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 (OJ L 171, 29.6.2016, p. 1).

Or. en

#### Amendment 4

##### Proposal for a regulation Recital 9

###### *Text proposed by the Commission*

(9) Different categories of low carbon indices with various degrees of ambition have emerged in the marketplace. While some benchmarks aim to lower the carbon footprint of a standard investment portfolio, others aim to select only components that contribute to attaining the 2°C degree objective set out in the Paris Climate Agreement. Despite differences in objectives and strategies, all of these benchmarks are commonly promoted as low-carbon benchmarks.

###### *Amendment*

(9) Different categories of low carbon indices with various degrees of ambition have emerged in the marketplace. While some benchmarks aim to lower the carbon footprint of a standard investment portfolio, others aim to select only components that contribute to attaining the 2°C degree objective set out in the Paris Climate Agreement. Despite differences in objectives and strategies, all of these benchmarks are commonly promoted as low-carbon benchmarks. ***There are serious risks associated with such types of benchmarks, as they are likely to create***

*confusion amongst investors and increase the likelihood of greenwashing.*

Or. en

## Amendment 5

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) Therefore, to maintain the proper functioning of the internal market, to further improve the conditions of its functioning, **and** to ensure a high level of consumer and investor protection, it is appropriate to adapt Regulation (EU) 2016/1011 **to lay down a regulatory framework for harmonised low carbon benchmarks at Union level.**

*Amendment*

(12) Therefore, to maintain the proper functioning of the internal market, to further improve the conditions of its functioning, to ensure a high level of consumer and investor protection **and to ensure that investments in the Union economy are aligned with the Paris Climate Agreement commitments as implemented in Union law and in that way to get a greater use of the 'pure play low-carbon index'**, it is appropriate to adapt Regulation (EU) 2016/1011.

Or. en

## Amendment 6

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

(14) Each company whose assets are selected as underlying in a positive impact benchmark should save more carbon emissions than it produces, hence have a positive impact on the environment. **The** asset and portfolio managers **who claim to** pursue an investment strategy **compatible** with the Paris Climate Agreement **should therefore use positive carbon impact benchmarks.**

*Amendment*

(14) Each company whose assets are selected as underlying in a positive impact benchmark should save **considerably** more carbon emissions than it produces, hence have a positive impact on the environment. **By 2022, all** asset and portfolio managers **should** pursue an investment strategy **fully aligned** with the Paris Climate Agreement **commitments as implemented in Union law.**



## Amendment 7

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) A variety of benchmark administrators claim that their benchmarks pursue environmental, social and governance ('ESG') objectives. The users of those benchmarks do however not always have the necessary information on the extent to which the methodology of those benchmark administrators takes into account those ESG objectives. The existing information is also often scattered and does not allow for effective comparison for investment purposes across borders. To enable market players to make well-informed choices, benchmark administrators should be required to disclose how their methodology takes into account the ESG factors for each benchmark or family of benchmarks ***that is promoted as pursuing ESG objectives.*** That information should also be disclosed in the benchmark statement. ***The administrators of benchmarks that do not promote or take into account the ESG objectives, should not be subject to this disclosure obligation.***

##### *Amendment*

(15) A variety of benchmark administrators claim that their benchmarks pursue environmental, social and governance ('ESG') objectives. The users of those benchmarks do however not always have the necessary information on the extent to which the methodology of those benchmark administrators takes into account those ESG objectives. The existing information is also often scattered and does not allow for effective comparison for investment purposes across borders. In order to enable market players to make well-informed choices, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ***a method to measure the social and governance impact of investments to be applied by benchmark providers by 2022. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making\*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. From that date on, all*** benchmark administrators

should be required to disclose how their methodology takes into account the ESG factors for each benchmark or family of benchmarks. That information should also be disclosed in the benchmark statement.

Or. en

## Amendment 8

### Proposal for a regulation

#### Recital 16

##### *Text proposed by the Commission*

(16) For the same reasons, administrators ***of low-carbon and of positive carbon impact benchmarks*** should equally publish their methodology used for ***their*** calculation. That information should describe how the underlying assets were selected and weighted and which assets were excluded and for what reason. The benchmark administrators should also specify how the low carbon benchmarks differ from the underlying parent index, notably in terms of the applicable weights, market capitalisation and financial performance of the underlying assets. To assess how the benchmark ***contributes*** to the ***environmental objectives***, the benchmark administrator should disclose how the carbon footprint and carbon savings of the underlying assets were measured, their respective values, including the total carbon footprint of the benchmark, and the type and source of the data used. To enable asset managers to choose the most appropriate benchmark for their investment strategy, benchmark administrators should explain the rationale behind the parameters of their methodology and explain how the benchmark ***contributes*** to the ***environmental objectives, including its impact on climate-change mitigation***. The published information should also include

##### *Amendment*

(16) For the same reasons, administrators should equally publish their methodology used for ***the*** calculation of ***the low-carbon and of the positive carbon impact of their benchmarks***. That information should describe how the underlying assets were selected and weighted and which assets were excluded and for what reason. The benchmark administrators should also specify how the low carbon benchmarks differ from the underlying parent index, notably in terms of the applicable weights, market capitalisation and financial performance of the underlying assets. To assess how the benchmark ***is aligned*** to the ***Paris Climate Agreement commitments as implemented in Union law***, the benchmark administrator should disclose how the carbon footprint and carbon savings of the underlying assets were measured, their respective values, including the total carbon footprint of the benchmark, and the type and source of the data used. To enable asset managers to choose the most appropriate benchmark for their investment strategy, benchmark administrators should explain the rationale behind the parameters of their methodology and explain how the benchmark ***is aligned*** to the ***Paris Climate Agreement commitments as implemented in Union law***. The published information

details on the frequency of reviews and the procedure followed.

should also include details on the frequency of reviews and the procedure followed.

Or. en

## Amendment 9

### Proposal for a regulation

#### Recital 17

##### *Text proposed by the Commission*

(17) In addition, administrator of positive carbon impact benchmarks should disclose the positive carbon impact of each underlying asset included in those benchmarks, specifying the method used to determine whether the emission savings exceed the investment asset's carbon footprint.

##### *Amendment*

(17) In addition, administrators of positive carbon impact benchmarks should disclose the positive carbon impact of each underlying asset included in those benchmarks, specifying the method used to determine whether the emission savings exceed the investment asset's carbon footprint ***and indicate the extent to which greenhouse gas emissions such as Scope 1,2 and 3 or other greenhouse gases such as methane have been taken into account.***

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 19

##### *Text proposed by the Commission*

(19) In order to enhance transparency and ensure an adequate level of harmonization, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to specify further the minimum content of the disclosure obligations that benchmark administrators ***that take into account the ESG objectives*** should be subject to, and to specify the minimum standards for

##### *Amendment*

(19) In order to enhance transparency and ensure an adequate level of harmonization, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to specify further the minimum content of the disclosure obligations ***concerning the ESG objectives*** that benchmark administrators should be subject to, and to specify the minimum standards for harmonization of

harmonization of the methodology of low-carbon and positive carbon impact benchmarks, including the method for the calculation of carbon emissions and carbon savings associated with the underlying assets, taking into account the Product and Organisation Environmental Footprint methods as defined in points (a) and (b) of point 2 of Commission Recommendation 2013/179/EU<sup>31</sup>. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making *of 13 April 2016*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>31</sup> Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

the methodology of low-carbon and positive carbon impact benchmarks, including the *standardised* method for the calculation of *the* carbon emissions and carbon savings associated with the underlying assets, taking into account the Product and Organisation Environmental Footprint methods as defined in points (a) and (b) of point 2 of Commission Recommendation 2013/179/EU<sup>31</sup>. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement *of 13 April 2016* on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>31</sup> Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

Or. en

## **Amendment 11**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 1**

Regulation (EU) 2016/1011

Article 3 – paragraph 1 – point 23a

*Text proposed by the Commission*

(23a) 'low-carbon benchmark' means a

*Amendment*

(23a) 'low-carbon benchmark' means a

benchmark where the underlying assets, for the purposes of point 1(b)(ii) of this paragraph, are selected so that the resulting benchmark portfolio **has less carbon emissions** when compared to the assets that comprise a standard capital-weighted benchmark and which is constructed in accordance with the standards laid down in the delegated acts referred to in Article 19a(2);

benchmark where the underlying assets, for the purposes of point 1(b)(ii) of this paragraph, are selected so that the resulting benchmark portfolio **is fully aligned with the de-carbonisation pathway required to achieve the commitments of the Paris Climate Agreement as implemented in Union law** when compared to the assets that comprise a standard capital-weighted benchmark and which is constructed in accordance with the standards laid down in the delegated acts referred to in Article 19a(2);

Or. en

## Amendment 12

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1011

Article 3 – paragraph 1 – point 23b

#### *Text proposed by the Commission*

(23b) ‘positive carbon impact benchmark’ means a benchmark where the underlying assets, for the purposes of point 1(b)(ii) of this paragraph, are selected on the basis that **their carbon emissions savings exceed the asset's carbon footprint** and which is constructed in accordance with the standards laid down in the delegated acts referred to in Article 19a(2).;

#### *Amendment*

(23b) ‘positive carbon impact benchmark’ means a benchmark where the underlying assets, for the purposes of point 1(b)(ii) of this paragraph, are selected on the basis that **the resulting benchmark portfolio displays emissions savings that are expected, by its administrator, to be the minimum required to achieve the Paris Climate Agreement commitments as implemented in Union law** and which is constructed in accordance with the standards laid down in the delegated acts referred to in Article 19a(2).;

Or. en

## Amendment 13

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The following subparagraph 1a is added:***

***‘By 2022, benchmark providers will ensure that all the benchmarks provided and published are positive carbon impact benchmarks, fully aligned with the Paris Climate Agreement commitments as implemented in Union law and this according to a standardised methodology which will be developed by the Commission in a delegated act published not later than two years after the entry into force of this regulation. In the delegated act the Commission will refer to existing Union frameworks setting out uniform criteria to determine the suitability of an economic activity for the purposes of determining the degree of sustainability of an investment.’***

Or. en

## **Amendment 14**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 – point a**

Regulation (EU) 2016/1011

Article 13 – paragraph 1 – point d

*Text proposed by the Commission*

*Amendment*

(d) an explanation of how the key elements of the methodology laid down in point (a) reflect environmental, social or governance (‘ESG’) factors for each benchmark or family of benchmarks ***which pursue or take into account ESG objectives;***

(d) an explanation of how the key elements of the methodology laid down in point (a) reflect environmental, social or governance (‘ESG’) factors for each benchmark or family of benchmarks, ***in particular how they align with the commitments of the Paris Climate Agreement as implemented in Union law. The explanation shall also indicate the extent to which greenhouse gas emissions such as scope 1, 2 and 3 emissions or other greenhouse gases such as methane***

*have been taken into account.*

Or. en

## Amendment 15

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/1011

Article 19a – paragraph 2 – introductory part

#### *Text proposed by the Commission*

(2) The Commission shall be empowered to adopt delegated acts in accordance with Article 49 to specify further the minimum standards for low-carbon and positive carbon impact benchmarks, ***including:***

#### *Amendment*

(2) The Commission shall be empowered to adopt delegated acts in accordance with Article 49 to specify further the minimum standards for low-carbon and positive carbon impact benchmarks ***and this in line with the Paris Climate Agreement commitments as implemented in Union law.***

Or. en

## Amendment 16

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/1011

Article 19a – paragraph 2 – point c

#### *Text proposed by the Commission*

(c) the method for the calculation of ***carbon emissions and carbon savings*** associated with the ***underlying*** assets.

#### *Amendment*

(c) the ***science based*** method for the calculation of ***the climate contribution to the commitments of the Paris Climate Agreement as implemented in Union law***, associated with the ***underlining*** assets ***and the relevant evidence to claim such benefits, including where relevant the climate scenario used and the assumptions of the scenario.***

Or. en

## Amendment 17

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 4

Regulation (EU) 2016/1011

Article 27 – paragraph 2a

*Text proposed by the Commission*

2a. For each requirement in paragraph 2, a benchmark statement shall contain an explanation of how environmental, social and governance factors are reflected for each benchmark or family of benchmarks provided and published *which pursue or take into account ESG objectives*.

*Amendment*

2a. ***To enable market players to make well-informed choices the Commission is empowered to adopt delegated acts in accordance with Article 49 concerning a methodology to measure the social and governance impact of investments and financial products to be applied by benchmark providers in their benchmarks by 2022. From that moment on,*** for each requirement in paragraph 2, a benchmark statement shall contain an explanation of how environmental, social and governance factors are reflected for each benchmark or family of benchmarks provided and published.

Or. en

## Amendment 18

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 4 a (new)

Regulation (EU) 2016/1011

Article 27 – paragraph 2 c (new)

*Text proposed by the Commission*

*Amendment*

***4a. The following paragraph is inserted:***

***‘2c. Against the background of technological innovation at a very rapid pace, it is crucial that the Commission investigates whether the benchmark sector is sufficiently competitive and will adopt, if appropriate, measures to boost the competitiveness of the sector. By ...[two years after the entry into force of***



*this Regulation], the European Supervisory Authority (European Securities and Markets Authority) in cooperation with national competent authorities, shall produce a report analysing whether fees are totally transparent, non-discriminative and based on actual costs. Based on the findings of that report, the Commission will be empowered to adopt a delegated act outlining criteria to ensure fees charged by benchmark providers to their clients for the provision of benchmarks are totally transparent, impartial and based on actual costs.'*

Or. en

## **Amendment 19**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 4 b (new)**

Regulation (EU) 2016/1011

Article 27 – paragraph 2 d (new)

*Text proposed by the Commission*

*Amendment*

**4b. The following paragraph is inserted:**

**'2d. With the rapid evolution in climate technology it is essential that new innovations are integrated by the Commission. By 31 December 2023, the Commission will therefore review this regulation and publish a report analysing the impact of this new regulation and of new climate technology in view of making the financial benchmark sector aligned with the Paris Climate Agreement commitments as implemented in Union law as well as with the requirements set out in Regulation .../... of the European Parliament and the European Council on the Governance of the Energy Union\*<sup>+</sup>, and amend, where appropriate, this Regulation.'**

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\* **Regulation (EU) .../... of the European Parliament and of the Council of ... on the Governance of the Energy Union, amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652 and repealing Regulation (EU) No 525/2013.. (OJ ...).**

+ **OJ: Please insert in the text the number of the Directive contained in document (2016/0375 (COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.**

Or. en

## Amendment 20

### Proposal for a regulation Annex I – point 1 – point b

*Text proposed by the Commission*

(b) all criteria and methods, including selection and weighting factors, metrics, proxies used in the benchmark calculation;

*Amendment*

(b) all criteria and methods, including selection, **exclusion** and weighting factors, metrics, **and** proxies used in the benchmark **methodology** calculation;

Or. en

## Amendment 21

### Proposal for a regulation Annex I – point 1 – point d

*Text proposed by the Commission*

(d) the criteria for and the methods of how the low carbon benchmark measures

*Amendment*

(d) the **science based** criteria for and the methods of how the low carbon

the carbon footprint and carbon savings associated with the underlying assets in the index portfolio;

benchmark measures the carbon footprint and carbon savings **as well as its alignment with the Paris Climate Agreement commitments as implemented in Union law** associated with the underlying assets in the index portfolio;

Or. en

## Amendment 22

### Proposal for a regulation Annex I – point 1 – point h – introductory part

*Text proposed by the Commission*

(h) the type and source of input data **used for the selection of assets or companies eligible for the low carbon benchmark, including:**

*Amendment*

(h) the type and source of input data **and how it is used within the benchmark methodology to determine the selection, exclusion or re-weighting of the underlying** assets.

Or. en

## Amendment 23

### Proposal for a regulation Annex I – point 1 – point h – point i

*Text proposed by the Commission*

(i) emissions from sources that are controlled by the company;

*Amendment*

(i) emissions **generated** from sources that are controlled by the company **associated with the underlying assets** ;

Or. en

## Amendment 24

### Proposal for a regulation Annex I – point 1 – point i

*Text proposed by the Commission*

(i) ***the total carbon-footprint exposure of the index portfolio and*** the estimated impacts on climate-change mitigation of the low carbon strategy pursued by the benchmark;

*Amendment*

(i) the estimated impacts on climate-change mitigation ***and the contribution to the Paris Climate Agreement commitments as implemented in Union law*** of the low carbon strategy pursued by the benchmark;

Or. en

**Amendment 25**

**Proposal for a regulation  
Annex I – point 2**

*Text proposed by the Commission*

2. The administrator of a positive carbon impact benchmark, in addition to the obligations applicable to the administrator of a low carbon benchmark, shall disclose the positive carbon impact of each underlying asset included in the benchmark and shall specify the formula or calculation that is used to determine whether the emission savings exceed the investment asset's or company's carbon footprint ('positive carbon impact ratio').

*Amendment*

2. The administrator of a positive carbon impact benchmark, in addition to the obligations applicable to the administrator of a low carbon benchmark, shall disclose the positive carbon impact of each underlying asset included in the benchmark and shall specify the formula or calculation that is used to determine whether the emission savings exceed the investment asset's or company's carbon footprint ('positive carbon impact ratio') ***and this in line with the Paris Climate Agreement commitments as implemented in Union law.***

Or. en

## EXPLANATORY STATEMENT

Ten years after the start of the biggest financial crisis of the 21st century, the global and European financial regulatory framework has altered dramatically. The sector itself has changed to a limited extent. Indeed, for example, in contrast to other economic sectors, a substantial policy debate about the role of the financial sector in promoting sustainability in light of the commitments of the Paris Agreement on climate change as implemented in EU-legislation is a recent occurrence. The financial services sector has a critical role to play in achieving the transition towards a low-carbon economy. This is one of the pre-eminent societal challenges of our times. To meet these, a change in culture is needed and it is essential that a standardised European approach is adopted to ensure that sustainable finance becomes the norm.

The Rapporteur welcomes the recommendations put forward by the High Level Expert Group on sustainable finance (HLEG), the Commission action plan on sustainable finance as well as their recent relevant legislative proposals, as important steps in the right direction.

In addition to the main financial players – such as banks, investment funds, pension funds – index providers, whose indexes alone help to channel trillions of Euros towards investment projects, have a key role to play. Indeed, financial benchmarks are cornerstones of global capital markets and, as stated by the European Commission, many investors rely on financial benchmarks, in particular in portfolio allocation and to measure the performance of financial products.

At the same time, however, the Rapporteur agrees with the conclusions of the HLEG, which state that the current use of benchmarks is a key driver of short-termism in financial markets. As further highlighted by the HLEG, the Rapporteur believes that long-term risks and opportunities linked to sustainability and climate change are not properly reflected in market valuations and hence will not be reflected in market benchmarks. As a result, investment strategies based on traditional benchmarks will tend to follow the status quo and allocate capital to assets that are not necessarily aligned with long-term sustainable development objectives.

Sticking to the status quo on the way capital is allocated based on financial benchmarks is therefore not an option.

To address this challenge, and to ensure more capital is channelled towards sustainable investments, the rapporteur welcomes the efforts undertaken by index providers in developing a wide range of indices aimed at capturing sustainability and climate considerations.

Nonetheless, and despite its merits, the added value of these current low-carbon benchmarks is rather limited in the sense that these benchmarks often simply discard the most heavily-emitting industries (energy utilities, for instance) and merely focus on services or manufacturing with limited levels of emissions, rather than focussing on the financing of a new economic model compatible with the Paris Agreement commitments as implemented in the EU legislation. Therefore, many of these indices are viewed far from satisfactory as they are open to greenwashing and do not always take into account all types of emissions.

It is estimated that in the fields of climate and energy space alone an additional annual

investment of EUR 180 billion is needed to meet the climate and energy targets by 2030. Against this background, the rapporteur agrees with the European Commission that a substantial part of this flow will have to come from the private sector and that therefore, in order to avoid a fragmented, less effective approach, a European standardised regulatory framework is urgently needed.

In view of avoiding any form of greenwashing, the Rapporteur welcomes the proposal put forward by the Commission as a first step towards introducing minimum standards for harmonising the methodology applicable to sustainable benchmarks.

However, in order to achieve the objectives set in the Paris Agreement, as implemented in EU legislation, it is critical that the European Parliament shows a significantly higher degree of ambition in line with the European Parliament's own-initiative report (INI-report) on sustainable finance. This ambition should be realistic, flexible and open to technological innovation, and should give at the same time the financial industry clarity and legal certainty around the direction of travel.

The Rapporteur proposes the following changes to the Commission proposal:

Firstly, as highlighted by the EP INI-report on sustainable finance (par27) all widely-used financial benchmarks do not consider environmental, social and governance (ESG) factors in their methodology. Indeed, as confirmed by the Index Industry Association (Survey, 30 June 2017), ESG-indexes represent only 0.3% of the index market, a very tiny niche. It is the Rapporteur's conviction that all the elements of the ESG-definition are equally important. However, for pragmatic reasons – as measuring the ecological impact of investments is far more developed – it is preferable to focus in the first instance on the climate impact of benchmarks, and in particular on their alignment with the Paris Agreement commitments as implemented in EU legislation. At the same time, the Commission will be empowered to adopt a delegated act setting out the methodology for measuring the social and governance impact of financial benchmarks.

Despite several industry initiatives to take climate elements into account, it appears that traditional benchmarks today provide investment paths closer to the five degrees Celsius scenario than the two degree scenario. (Mirova study 'Estimating portfolio coherence with climate scenario's', 2018). It is therefore critical that this proposal does not just focus on a niche market, but aims to bring the whole financial benchmark market in line with the Paris Agreement commitments as implemented in EU legislation.

Therefore, it is the Rapporteur's belief that by 2022, benchmark providers should have to ensure that all the benchmarks provided and published are aligned with the Paris Agreement commitments as implemented in EU legislation and this according to a standardised methodology which will be developed by the Commission in a delegated act published not later than two years after the entry into force of this regulation.

The Rapporteur proposes, furthermore, that benchmark providers describe precisely in a standardised way in all the benchmark statements what the climate impact is of the benchmarks used and how these are to be aligned with the Paris Agreement commitments as implemented in EU legislation.

Secondly, to ensure future consistency and legal certainty, it is imperative that as and when the EU taxonomy regulation comes into force, there is coherence between the both texts.

Thirdly, with the rapid evolution in climate technology the Commission should investigate whether the benchmark sector is sufficiently competitive and should adopt, if appropriate, measures to boost the competitiveness of the sector. The rapporteur notes that competition could be hampered by the high level of fees charged by benchmark providers to their clients. Two years after the entry into force of this regulation, the European Securities and Markets Authority, in cooperation with national competent authorities, will produce a report analysing whether fees are totally transparent, non-discriminative and based on actual costs. Based on the findings of this report, the Commission will be empowered to adopt a delegated act outlining criteria to ensure fees charged by benchmark providers to their clients for the provision of benchmarks are totally transparent, impartial and based on actual costs.

Finally, with the rapid evolution in climate technology it is essential that new innovations are integrated by the European Commission. This is the rationale behind having a review clause to analyse the impact of this new regulation in terms of making the financial benchmark sector aligned with the Paris agreement commitments as well as with the requirements set in the Regulation of the European Parliament and the European Council on the Governance of the Energy Union.