



2023/0379(COD)

11.1.2024

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements (COM(2023)0660 – C9-0389/2023 – 2023/0379(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Jonás Fernández

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.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements
(COM(2023)0660 – C9-0389/2023 – 2023/0379(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0660),
 - 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 (C9-0389/2023),
 - 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 (A9-0000/2023),
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 2

Text proposed by the Commission

(2) Under Regulation (EU) 2016/1011 of the European Parliament and of the Council⁴, all administrators of benchmarks, regardless of the systemic relevance of those benchmarks or of the amount of financial instruments or

Amendment

(2) Under Regulation (EU) 2016/1011 of the European Parliament and of the Council⁴, all administrators of benchmarks, regardless of the systemic relevance of those benchmarks or of the amount of financial instruments or

contracts that use those benchmarks as reference rates or as performance benchmarks, are to comply with several very detailed requirements, including requirements on their organisation, on the governance and conflicts of interest, on oversight functions, on input data, on codes of conduct, on reporting of infringements, and on methodological and benchmark statement disclosures. Those very detailed requirements have put a disproportionate regulatory burden on administrators of smaller benchmarks in the Union considering the aims of Regulation (EU) 2016/1011, that is to safeguard financial stability and to avoid negative economic consequences that result from the unreliability of benchmarks. It is therefore necessary to reduce that regulatory burden by focusing on those benchmarks with the greatest economic relevance for the Union market, i.e. significant and critical benchmarks, and on those benchmarks that contribute to the promotion of key Union policies, i.e. EU Climate Transition *and* EU Paris-aligned Benchmarks. For that reason, the scope of application of Titles II, III, IV and VI of Regulation (EU) 2016/1011 should be reduced to those specific benchmarks.

⁴ 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).

contracts that use those benchmarks as reference rates or as performance benchmarks, are to comply with several very detailed requirements, including requirements on their organisation, on the governance and conflicts of interest, on oversight functions, on input data, on codes of conduct, on reporting of infringements, and on methodological and benchmark statement disclosures. Those very detailed requirements have put a disproportionate regulatory burden on administrators of smaller benchmarks in the Union considering the aims of Regulation (EU) 2016/1011, that is to safeguard financial stability and to avoid negative economic consequences that result from the unreliability of benchmarks. It is therefore necessary to reduce that regulatory burden by focusing on those benchmarks with the greatest economic relevance for the Union market, i.e. significant and critical benchmarks, and on those benchmarks that contribute to the promotion of key Union policies, i.e. EU Climate Transition *Benchmarks*, EU Paris-aligned *Benchmarks and ESG* Benchmarks. For that reason, the scope of application of Titles II, III, IV and VI of Regulation (EU) 2016/1011 should be reduced to those specific benchmarks.

⁴ 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 2

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Benchmark administrators who wish to remain within the scope of Regulation (EU) 2016/1011 should have the option to request voluntary supervision even if their benchmarks do not meet the threshold of a significant benchmark or they are not designated as significant. Likewise, benchmark administrators who wish to obtain a regulatory license under Regulation (EU) 2016/1011 where their benchmarks do not meet the significant threshold should not be prohibited from doing so.

Or. en

Amendment 3

Proposal for a regulation Recital 4

Text proposed by the Commission

Amendment

(4) Pursuant to Article 19d of Regulation (EU) 2016/1011, administrators of significant benchmarks are required to endeavour to provide an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark ***by 1 January 2022. As this date has elapsed, it is appropriate to delete this provision.***

(4) Pursuant to Article 19d of Regulation (EU) 2016/1011, administrators of significant benchmarks are required to endeavour to provide an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark ***in an attempt to form a comprehensive supply of climate indices in the Union.***

Or. en

Amendment 4

Proposal for a regulation Recital 6

(6) Benchmark administrators ***are best placed to*** monitor the use in the Union of the benchmarks they provide. ***They should therefore*** notify the competent authority concerned or the European Securities and Markets Authority (ESMA), depending on where that administrator is located, that the aggregate use of one of their benchmarks has exceeded the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011. To ensure ***that*** benchmark administrators ***have sufficient time to adapt to the requirements that apply to significant benchmarks, they should only be subject to those requirements within 60 working days after having submitted such a notification. In addition, benchmark administrators should provide the competent authorities concerned or ESMA, upon request, with all information necessary to assess that benchmark's aggregate use in the Union. Where a benchmark administrator omits or refuses to notify that the usage of one of its benchmarks has exceeded the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011, and where competent authorities have clear and demonstrable grounds to consider that the threshold has been exceeded, the competent authorities concerned or ESMA, as appropriate, should be able to declare that the threshold has been exceeded, having first given the administrator the opportunity to be heard. Such declaration should trigger the same obligations for the benchmark administrator as a notification by the benchmark administrator. This should be without prejudice to the ability of ESMA or competent authorities to impose administrative sanctions on those administrators that fail to notify that one of their benchmarks has exceeded the applicable threshold.***

(6) Benchmark administrators ***should*** monitor the use in the Union of the benchmarks they provide ***and*** notify the competent authority concerned or the European Securities and Markets Authority (ESMA), depending on where that administrator is located, that the aggregate use of one of their benchmarks has exceeded the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011. ***However, it is challenging to calculate such threshold, especially limiting to the Union scope.*** To ensure consistent implementation of those thresholds ESMA should develop draft regulatory technical standards to specify further the calculation method. The data should be available to ESMA with the introduction of a reporting mechanism from benchmark users and the inclusion of an endeavour/obligation for administrators of benchmarks used in the Union to request a globally agreed identifier code to identify their benchmarks.

Amendment 5

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) To ensure that benchmark administrators have sufficient time to adapt to the requirements that apply to significant benchmarks, they should only be subject to those requirements as from 60 working days after having submitted such a notification. In addition, benchmark administrators should provide the competent authorities concerned or ESMA, upon request, with all information necessary to assess that benchmark's aggregate use in the Union.

Or. en

Amendment 6

Proposal for a regulation

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Where a benchmark administrator fails to notify the competent authorities that the usage of one of its benchmarks has exceeded the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011, and where the competent authorities have clear and demonstrable grounds to consider that the threshold has been exceeded, the competent authorities concerned or ESMA, as appropriate, should be able to declare that the threshold has been exceeded, having first given the administrator the opportunity to be heard. Such declaration should trigger

the same obligations for the benchmark administrator as a notification by the benchmark administrator. This should be without prejudice to the ability of ESMA or competent authorities to impose administrative penalties on administrators that fail to notify that one of their benchmarks has exceeded the applicable threshold.

Or. en

Amendment 7

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks are specific categories of benchmarks, defined by their compliance with rules governing their methodology and the disclosures their administrator *are to make*. For that reason, and to prevent claims that could lead users to think that such benchmarks are compliant with the standards attached to those labels, it is necessary to subject those benchmarks to mandatory registration *or* authorisation, as appropriate, and to supervision.

Amendment

(12) EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks are specific categories of benchmarks, defined by their compliance with rules governing their methodology and the disclosure *requirements of* their administrators. For that reason, and to prevent claims that could lead users to think that such benchmarks are compliant with the standards attached to those labels, it is necessary to subject those benchmarks to mandatory registration, authorisation, *recognition or endorsement*, as appropriate, and to supervision.

Or. en

Amendment 8

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The regulatory treatment of commodity benchmarks should be tailored

*to their specific characteristics.
Commodity benchmarks that are subject to the general rules for financial benchmarks should be treated identically to other financial benchmarks and should be covered by Regulation (EU) 2016/1011 only if they are significant or critical benchmarks and have not been exempted from the scope of this Regulation.
Commodity benchmarks subject to the specific regime in Annex II of Regulation (EU) 2016/1011 should always be covered by that Regulation in order to ensure the robustness and reliability of their assessments.*

Or. en

Amendment 9

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Regulation (EU) 2019/2089 has introduced rules as regards the transparency of benchmarks claiming, in their marketing of legal communication, to be taking environmental, social or governance (ESG) factors into consideration in their design. In order to maintain a high level of transparency surrounding ESG-related claims and an adequate level of protection for users, it is appropriate to require that users of benchmarks making ESG-related claims do not use such benchmarks when they are not provided with the information referred to in Articles 13(1), point d, and 27(2a) of Regulation (EU) 2016/1011. This should apply to the use of any benchmark claiming to take ESG factors into account in their design, regardless of whether such benchmark is administered in the Union or in a third-country.

Amendment 10

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) To ensure a seamless transition to the rules introduced under this Regulation ***and to avoid that administrators have to go through a procedure for registration or authorisation more than once, competent authorities and ESMA should provide less burdensome application procedures for administrators that are already authorised, registered, endorsed or recognised and that apply for a new authorisation, registration, endorsement or recognition within two years from the date of application of this amending Regulation.***

Amendment

(21) To ensure a seamless transition to the rules introduced under this Regulation administrators ***previously supervised under Regulation (EU) 2016/1011 should keep existing registrations, authorisations, recognitions or endorsements for six months after the entry into application of this amending regulation. This time period intends to give competent authorities or ESMA the time to decide whether any of the previously supervised administrators shall be designated in accordance with this Regulation. If designated, administrators previously authorised, registered, recognised or endorsed should be allowed to retain their previous status and not have to re-apply. Administrators of significant benchmarks should, in any event, be allowed to retain their status as registered, authorised, recognised or endorsed benchmark administrators.***

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point a

Regulation (EU) No 2016/1011

Article 2 – paragraph 1a

Text proposed by the Commission

1a. Titles II, III, IV and VI .apply only in respect of critical benchmarks, significant benchmarks, EU Climate

Amendment

1a. Titles II, III, ***with the exception of Articles 23a to 23d***, IV and VI apply only in respect of critical benchmarks,

Transition Benchmarks **and** EU Paris-aligned Benchmarks.;

significant benchmarks, **commodity benchmarks subject to Annex II**, EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks **and ESG Benchmarks**.;

Or. en

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) No 2016/1011

Article 2 – paragraph 2 – point i

Text proposed by the Commission

Amendment

(b) in paragraph 2, **points (g) and (i)** are deleted;

(b) in paragraph 2, **point (i)** is deleted;

Or. en

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point -a (new)

Regulation (EU) No 2016/1011

Article 3 – paragraph 1 – point 17 – point m

Present text

Amendment

(m) an administrator;

(-a) in point (17), point (m) is amended as follows:

"(m) an administrator *authorised or registered pursuant to Article 34*;"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a a (new)

Regulation (EU) No 2016/1011
Article 3 – paragraph 1 – point 23 c a (new)

Text proposed by the Commission

Amendment

(aa) point (23ca) is added:

(23ca) ‘ESG Benchmark’ means a benchmark that pursues ESG objectives and that fulfils the disclosure requirements pursuant to Article 13(1)(d) and Article 27(2a).

Or. en

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 8 a (new)

Regulation (EU) No 2016/1011

Article 19 – paragraph 1 – subparagraph 2

Present text

Amendment

Articles 24, 25 and 26 shall not apply to the provision of, and contribution to, commodity benchmarks.

(8a) in Article 19(1), the second subparagraph is amended as follows:

"Article 25 shall not apply to the provision of, and contribution to, commodity benchmarks."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – introductory part

Regulation (EU) No 2016/1011

Article 19a – paragraph 4

Text proposed by the Commission

Amendment

(9) in Article 19a, the following paragraph 4 is added:

(9) in Article 19a, the following paragraphs are added:

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 2016/1011

Article 19a – paragraph 4 – introductory part

Text proposed by the Commission

4. Administrators that are not ***authorised or registered pursuant to*** Article 34 shall not :

Amendment

4. Administrators that are not ***included in the register referred to in*** Article 36 shall not :

Or. en

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 2016/1011

Article 19a – paragraph 4 – point a

Text proposed by the Commission

(a) provide EU Climate Transition Benchmarks or Paris-aligned Benchmarks;

Amendment

(a) provide ***or endorse*** EU Climate Transition Benchmarks or ***EU*** Paris-aligned Benchmarks;

Or. en

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) No 2016/1011

Article 19a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Administrators shall include the term “EU CTB” in the name of the EU Climate Transition Benchmarks and the

*term “EU PAB” in the name of the EU
Paris Aligned Benchmarks.*

Or. en

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) No 2016/1011

Article 19d

Text proposed by the Commission

Amendment

(10) *Article 19d is deleted;*

deleted

Or. en

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 10 a (new)

Regulation (EU) No 2016/1011

Article 19d – paragraph 1

Present text

Amendment

By 1 January 2022, administrators which are located in the Union and which provide significant benchmarks determined on the basis of the value of one or more underlying assets or prices shall endeavour to provide one or more EU Climate Transition Benchmarks.

(10 a) Article 19d(1) is amended as follows:

"Administrators which are located in the Union and which provide significant benchmarks determined on the basis of the value of one or more underlying assets or prices shall endeavour to provide one or more EU Climate Transition Benchmarks **or EU Paris-aligned Benchmarks.**"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 10 b (new)

Regulation (EU) No 2016/1011

Article 19d a (new)

Text proposed by the Commission

Amendment

(10b) the following Article is inserted:

“Article 19da

Title for the Article here

1. Administrators that are not authorised or registered pursuant to Article 34, or recognised pursuant to Article 32 shall not:

(a) provide or endorse ESG Benchmarks; or

(b) indicate or suggest, in the name of the benchmarks they make available for the use in the Union or in the legal or marketing documentation for those benchmarks, that the benchmarks they make available pursue ESG objectives or take into account ESG factors.

2. ESMA shall develop draft regulatory technical standards to specify common standards on the names of ESG Benchmarks.

ESMA shall submit those draft regulatory technical standards to the Commission by [12 months after the entry into force of this Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first sub-paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.”

Or. en

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 1 – point a

Text proposed by the Commission

(a) the benchmark is used directly or indirectly within a combination of benchmarks within the Union as a reference for financial instruments or financial contracts or for measuring the performance of investments funds, that have a total average value of at least EUR **50** billion on the basis of all the range of maturities or tenors of the benchmark, where applicable, over a period of six months;

Amendment

(a) the benchmark is used directly or indirectly within a combination of benchmarks within the Union as a reference for financial instruments or financial contracts or for measuring the performance of investments funds, that have a total average value of at least EUR **30** billion on the basis of ***the characteristics of the benchmark including:***

(i) all the range of maturities or tenors of the benchmark, where applicable, over a period of six months;

(ii) ***all the currencies or other units of measurement of the benchmark, where applicable, over a period of six months; and***

(iii) ***all the return calculation methodologies, where applicable, over a period of six months;***

Or. en

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

An administrator shall immediately notify the competent authority of ***the*** Member State ***where it is located or, if located in a third country, ESMA***, where one or

Amendment

An administrator shall immediately notify ***ESMA and, if located in a Member State,*** the competent authority of ***that*** Member State, where one or several of that

several of that administrator's benchmarks exceed the threshold referred to in paragraph 1, point (a). Following receipt of that notification, ***the competent authority or ESMA, as appropriate***, shall publish a statement on its website stating that that benchmark is significant.

administrator's benchmarks exceed the threshold referred to in paragraph 1, point (a). Following receipt of that notification, ***ESMA***, shall publish a statement on its website stating that that benchmark is significant ***either in one Member State or within the Union***.

Or. en

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 2 – subparagraph 2

Text proposed by the Commission

An administrator shall, upon request, provide the competent authority of the Member State where it is located ***or, if located in a third country, ESMA***, with information as regards whether the threshold referred to in paragraph 1, point (a) has been effectively exceeded.

Amendment

An administrator shall, upon request, provide ***ESMA and*** the competent authority of the Member State where it is located, with information as regards whether the threshold referred to in paragraph 1, point (a) has been effectively exceeded.

Or. en

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where a competent authority or, ***in the case of a third-country administrator, ESMA***, has clear and demonstrable grounds to consider that a benchmark exceeds the threshold referred to in paragraph 1, point (a), the competent authority or ESMA may issue a notice

Amendment

Where a competent authority or ***ESMA*** has clear and demonstrable grounds to consider that a benchmark exceeds the threshold referred to in paragraph 1, point (a), the competent authority or ESMA may issue a notice stating that fact. Such a notice shall trigger the same obligations for the

stating that fact. Such a notice shall trigger the same obligations for the benchmark administrator as a notification as referred to in paragraph 2. At least 10 working days before issuing such notice, the competent authority or ESMA shall inform the administrator of the benchmark concerned of its findings, and invite that administrator to submit any observation.

benchmark administrator as a notification referred to in paragraph 2. At least 10 working days before issuing such notice, the competent authority or ESMA shall inform the administrator of the benchmark concerned of its findings, and invite that administrator to submit any observation.

Or. en

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 3 – subparagraph 1 – point (c)

Text proposed by the Commission

(c) the benchmark has not been designated by a competent authority of another Member State.

Amendment

(c) the benchmark has not been designated by a competent authority of another Member State **or ESMA**.

Or. en

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Where ESMA finds that a benchmark meets the conditions under paragraph 3, ***1st paragraph***, points (a) to (c), in more than one Member State, it shall inform the competent authorities of the Member States concerned thereof. ***They shall agree which among them designates the benchmark concerned as significant benchmark.***

Amendment

Where ESMA finds that a benchmark meets the conditions under paragraph 3, ***first subparagraph***, points (a) to (c), in more than one Member State, it shall inform the competent authorities of the Member States concerned thereof.

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where competent authorities disagree on the matter referred to in the first subparagraph, they shall refer the matter to ESMA, ESMA shall settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010.

Amendment

ESMA shall prepare a draft decision to designate the benchmark as significant within the Union and notify that draft decision to the administrator concerned and to the relevant competent authorities where point (b) applies. The administrators concerned and the relevant competent authorities shall have 15 working days from the date of that notification to provide observations and comments in writing. ESMA shall duly consider those observations and comments before adopting a final decision and shall publish that decision.

Or. en

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 6 – subparagraph 1 – introductory part

Text proposed by the Commission

ESMA may, upon the request of a competent authority, designate a benchmark provided by an administrator located in a third country that does not meet the threshold laid down in paragraph 1, point (a), as significant where that benchmark fulfils all of the following conditions:

Amendment

ESMA may, upon the request of a competent authority **or on its own initiative**, designate a benchmark provided by an administrator located in a third country that does not meet the threshold laid down in paragraph 1, point (a), as significant where that benchmark fulfils all of the following conditions:

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Administrators of benchmarks which do not meet the requirements to be considered as critical, significant, commodity benchmarks subject to Annex II, EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks or ESG Benchmarks may voluntarily apply for access to the register provided for in Article 36 either by means of authorisation, registration recognition or endorsement.

Administrators who voluntarily opt in to this Regulation shall be subject to the same regime as administrators of significant benchmarks. The voluntary waiver of that regime shall not prevent the corresponding administrative responsibilities from being imposed in the event of non-compliance or infringement of Regulation (EU) 2016/1011 during their voluntary stay in the register provided for in Article 36.

Or. en

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EU) No 2016/1011

Article 24 – paragraph 7

Text proposed by the Commission

7. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 49 to further specify the calculation method to be used to determine the threshold referred to in paragraph 1, point (a) of this Article in the light of market, price and regulatory developments.***

Amendment

7. ***ESMA shall develop draft regulatory technical standards to specify:***

- (i) the calculation method, including potential data sources, to be used to determine the threshold referred to in paragraph 1, point (a) of this Article;***
 - (ii) the criteria to assess when a benchmark exceeds the threshold referred to in Article 24(1), point (a), in one Member State or across the Union;***
 - (iii) the information that competent authorities shall provide when consulting ESMA as required in Article 24(3);***
 - (iv) the criteria referred to in Article 24(4), point (b), taking into consideration any data which helps assess the significant and adverse impact of the cessation or unreliability of the benchmark on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in one or more Member States;***
- ESMA shall submit those draft regulatory technical standards to the Commission by [12 months after the entry into force of this Regulation].***

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first sub-paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 1 – introductory part

Text proposed by the Commission

(1) Within 60 working days following the notification referred to in Article 24(2), the administrator of a benchmark satisfying the criterion referred to in paragraph (1), point (a), of that Article, shall seek authorisation or registration with the competent authority of the Member State ***where it is located***. Where that administrator is located in a third country ***and unless the benchmark concerned is covered by an equivalence decision adopted pursuant to Article 30***, that administrator shall, within 60 working days following the notification referred to in Article 24(2), ***seek*** either of the following:

Amendment

(1) Within 60 working days following the notification referred to in Article 24(2), the administrator of a benchmark satisfying the criterion referred to in paragraph (1), point (a), of that Article, shall seek authorisation or registration with the competent authority of the Member State, ***where it is significant in this Member State, or with ESMA, where the benchmark is significant within the Union***. Where that administrator is located in a third country, that administrator shall, within 60 working days following the notification referred to in Article 24(2), ***apply with ESMA for*** either of the following:

Or. en

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 1 – point a

Text proposed by the Commission

(a) recognition ***with ESMA*** pursuant to the procedure set out in Article 32;

Amendment

(a) recognition pursuant to the procedure set out in Article 32;

Or. en

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Within 60 working days following a designation as referred to in Article 24(5), the administrator of the benchmark concerned, unless that administrator is already authorised or registered, shall seek authorisation or registration with ESMA in accordance with Article 34. If that administrator is already authorised or registered in a Member State, such authorisation or registration shall be transferred to ESMA.

Or. en

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

(3) Within 60 working days **following** a designation referred to in Article 24(6), the administrator of the benchmark concerned, **unless the benchmark concerned is covered by an equivalence decision adopted pursuant to Article 30, shall seek** either of the following:

(3) Within 60 working days **of** a designation referred to in Article 24(6), the administrator of the benchmark concerned **shall apply to ESMA for** either of the following:

Or. en

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 3 – point a

Text proposed by the Commission

(a) recognition **with ESMA** pursuant to the procedure set out in Article 32;

Amendment

(a) recognition pursuant to the procedure set out in Article 32;

Or. en

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 2016/1011

Article 24a – paragraph 5 – subparagraph 1 – point d

Text proposed by the Commission

(d) ESMA has withdrawn or suspended the recognition of the administrator concerned in accordance with Article **34(6)**;

Amendment

(d) ESMA has withdrawn or suspended the recognition of the administrator concerned in accordance with Article **32(8)**;

Or. en

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 13 a (new)

Regulation (EU) No 2016/1011

Article 28 – paragraph 2

Present text

2. Supervised entities other than an administrator as referred to in paragraph 1 that use a benchmark shall produce and maintain robust written plans setting out

Amendment

(13a) Article 28, paragraph 2 is amended as follows:

"2. Supervised entities other than an administrator as referred to in paragraph 1 that use a benchmark shall produce and maintain robust written plans setting out

the actions that they would take in the event that a benchmark materially changes or ceases to be provided. Where feasible and appropriate, such plans shall designate one or several alternative benchmarks that could be referenced to substitute the benchmarks that would no longer be provided, indicating the reasons for the suitability of such alternative benchmarks. The supervised entities shall, upon request and without undue delay, provide the relevant competent authority with those plans and any updates and shall reflect them in *their* contractual *relationship with clients*.

the actions that they would take in the event that a benchmark materially changes or ceases to be provided. Where feasible and appropriate, such plans shall designate one or several alternative benchmarks that could be referenced to substitute the benchmarks that would no longer be provided, indicating the reasons for the suitability of such alternative benchmarks. The supervised entities shall, upon request and without undue delay, provide the relevant competent authority with those plans and any updates and shall reflect them in contractual *fallback provisions applicable to financial contracts, financial instruments and investment funds*."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a

Regulation (EU) No 2016/1011

Article 29 – title

Text proposed by the Commission

Use of significant benchmarks, EU Climate Transition Benchmarks *and* EU Paris-aligned Benchmarks;

Amendment

Use of *critical benchmarks*, significant benchmarks, *commodity benchmarks subjected to Annex II*, EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks *and ESG Benchmarks*;

Or. en

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b

Regulation (EU) No 2016/1011

Article 29 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A supervised entity shall not add new references to a significant benchmark or a combination of such benchmarks in the Union where that benchmark or combination of benchmarks is the object of a public notice issued by ESMA or a competent authority in accordance with Article 24a(5). A supervised entity shall not add new references to an EU Climate Transition Benchmark or an EU Paris-aligned Benchmark or combination of such benchmarks in the Union where the administrator of those benchmarks **is** not included in the register referred to in Article 36.

Amendment

A supervised entity shall not add new references to **a critical benchmark**, a significant benchmark or a combination of such benchmarks in the Union where that benchmark or combination of benchmarks is the object of a public notice issued by ESMA or a competent authority in accordance with Article 24a(5). A supervised entity shall not add new references to **a critical benchmark, a commodity benchmark subject to Annex II**, an EU Climate Transition Benchmark or an EU Paris-aligned **Benchmark or an ESG Benchmark** or combination of such benchmarks in the Union where the administrator of those benchmark **is** not included in the register referred to in Article 36.

Or. en

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b

Regulation (EU) No 2016/1011

Article 29 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Supervised entities shall regularly consult the European Single Access Point (ESAP) as referred to in Article 28a, or the ESMA register as referred to in Article 36, to verify the regulatory status of the administrators of significant benchmarks, EU Climate Transition Benchmarks **or** EU Paris-Aligned Benchmarks they intend to use.

Amendment

Supervised entities shall regularly consult the European Single Access Point (ESAP) as referred to in Article 28a, or the ESMA register as referred to in Article 36, to verify the regulatory status of the administrators of **critical benchmarks, commodity benchmarks subject to Annex II**, EU Climate Transition Benchmarks, EU Paris-Aligned **Benchmarks or ESG** Benchmarks they intend to use.

Or. en

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c

Regulation (EU) No 2016/1011

Article 29 – paragraph 1a

Text proposed by the Commission

1a. A supervised entity that uses a benchmark in existing financial contracts or financial instruments that is subject to a public notice under Article 24a(5) shall replace that benchmark with an appropriate alternative within 6 months following the publication of that notice, or issue and publish a statement on its website informing clients of the absence of an appropriate alternative.;

Amendment

1b. A supervised entity that uses a benchmark in existing financial contracts or financial instruments that is subject to a public notice under Article 24a(5) shall replace that benchmark with an appropriate alternative within 6 months following the publication of that notice, or issue and publish a statement on its website informing clients of the absence of an appropriate alternative.;

Or. en

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c a (new)

Regulation (EU) No 2016/1011

Article 29 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

(ca) the following paragraph is inserted :

1c. A supervised entity may use a benchmark claiming, in its legal or marketing documentation, or denomination, to take ESG factors into account in its methodology, only where its administrator discloses the information referred to in Article 13(1), point (d), and in Article 27(2a). This paragraph shall apply to both EU and non-EU benchmarks.

Or. en

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c b (new)

Regulation (EU) No 2016/1011

Article 29 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

(cb) the following paragraph is inserted:

1d. Supervised entities shall at least annually report to ESMA the level of use of the benchmarks subject to this Regulation, in accordance with the criteria specified in Article 24 (7).

Or. en

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c c (new)

Regulation (EU) No 2016/1011

Article 29 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

(cc) a new paragraph 1e is inserted:

1e. ESMA shall develop draft regulatory technical standards to further specify the information to be provided, the periodicity and the format in which the supervised entities must make the report referred to in paragraph 1c.

ESMA shall submit those draft regulatory technical standards to the Commission by ... [one year after the date of entering into force of this amending regulation].'

Or. en

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c d (new)

Regulation (EU) No 2016/1011

Article 29 – paragraph 2

Present text

2. Where the object of a prospectus to be published under Directive 2003/71/EC or Directive 2009/65/EC is transferable securities or other investment products that reference a benchmark, the issuer, offeror, or person asking for admission to trade on a regulated market shall ensure that the prospectus also includes clear and prominent information stating whether the benchmark is provided by an administrator included in the register referred to in Article 36 of this Regulation.

Amendment

(cd) paragraph 2 is amended as follows:

"2. Where the object of a prospectus to be published under Directive 2003/71/EC or Directive 2009/65/EC is transferable securities or other investment products that reference a **critical benchmark, a significant benchmark, a commodity benchmark subject to Annex II, an EU Climate Transition Benchmark, an EU Paris-aligned Benchmark or an ESG** Benchmark, the issuer, offeror, or person asking for admission to trade on a regulated market shall ensure that the prospectus also includes clear and prominent information stating whether the benchmark is provided by an administrator included in the register referred to in Article 36 of this Regulation."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c e (new)

Regulation (EU) No 2016/1011

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(ce) the following paragraph is added:

2a. Administrators of benchmarks used in the Union shall endeavour to request a globally agreed identifier code for each of the benchmarks they provide

for use in the Union.'

Or. en

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 15 – point b

Regulation (EU) No 2016/1011

Article 32 – paragraph 3

Text proposed by the Commission

3. An administrator located in a third country intending to obtain recognition shall have a legal representative. The legal representative shall be a ***natural or*** legal person located in the Union and expressly appointed by that administrator to act on behalf of that administrator with regard to the administrator's obligations under this Regulation. The legal representative shall, together with the administrator, perform the oversight function relating to the provision of benchmarks performed by the administrator under this Regulation and, ***in that respect***, be accountable to ESMA.;

Amendment

3. An administrator located in a third country intending to obtain recognition shall have a legal representative. The legal representative shall be a legal person located in the Union and expressly appointed by that administrator to act on behalf of that administrator with regard to the administrator's obligations under this Regulation. The legal representative shall, together with the administrator, perform the oversight function relating to the provision of benchmarks performed by the administrator under this Regulation and be accountable to ESMA. ***ESMA may impose a supervisory measure in accordance with Article 48e on the legal representative and the administrator for one of the infringements listed in Article 42(1), point (a), or in relation to any failure to cooperate or comply in an investigation or with an inspection or request covered by Section 1 of Chapter 4.***

Or. en

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 15 a (new)

Regulation (EU) No 2016/1011

Article 33 – paragraph 1 – introductory part

Present text

1. An administrator located in the Union and authorised or registered in accordance with Article 34, ***or any other supervised entity located in the Union*** with a clear and well-defined role within the control or accountability framework of a third country administrator, which is able to monitor effectively the provision of a benchmark, may apply to ***the relevant competent authority*** to endorse a benchmark or a family of benchmarks provided in a third country for their use in the Union, provided that all of the following conditions are fulfilled:

Amendment

(15 a) in Article 33, (1), introductory part is amended as follows:

"1. An administrator located in the Union and authorised or registered in accordance with Article 34, with a clear and well-defined role within the control or accountability framework of a third country administrator, which is able to monitor effectively the provision of a benchmark, may apply to ***ESMA*** to endorse a benchmark or a family of benchmarks provided in a third country for their use in the Union, provided that all of the following conditions are fulfilled:"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 15 b (new)

Regulation (EU) No 2016/1011

Article 33 – paragraph 3

Present text

3. Within 90 working days of receipt of the application for endorsement referred to in paragraph 1, ***the relevant competent authority*** shall examine the application and adopt a decision either to authorise the endorsement or to refuse it. ***An endorsed benchmark or an endorsed family of benchmarks shall be notified by the competent authority to ESMA.***

Amendment

(15b) Article 33, (3) is amended as follows:

"3. Within 90 working days of receipt of the application for endorsement referred to in paragraph 1, ***ESMA*** shall examine the application and adopt a decision either to authorise the endorsement or to refuse it."

Or. en

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 15 c (new)

Regulation (EU) No 2016/1011

Article 33 – paragraph 6

Present text

6. Where the competent authority of the endorsing administrator **or other supervised entity** has well-founded reasons to consider that the conditions laid down under paragraph 1 of this Article are no longer fulfilled, it shall have the power to require the endorsing administrator **or other supervised entity** to cease the endorsement and shall inform ESMA thereof. Article 28 shall apply in case of cessation of the endorsement.

Amendment

(15c) Article 33, (6) is amended as follows:

"6. Where the competent authority of the endorsing administrator has well-founded reasons to consider that the conditions laid down under paragraph 1 of this Article are no longer fulfilled, it shall have the power to require the endorsing administrator to cease the endorsement and shall inform ESMA thereof. Article 28 shall apply in case of cessation of the endorsement."

Or. en

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a

Regulation (EU) No 2016/1011

Article 34 – paragraph 1 – introductory part

Text proposed by the Commission

1. A natural or legal person located in the Union that acts or intends to act as an administrator shall apply to the competent authority designated under Article 40 of the Member State in which that person is located in order to receive:

Amendment

1. A natural or legal person located in the Union that acts or intends to act as an administrator shall apply to the competent authority designated under Article 40 of the Member State in which that person is located **or ESMA** in order to receive:

Or. en

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a

Regulation (EU) No 2016/1011

Article 34 – paragraph 1 – point a

Text proposed by the Commission

(a) authorisation where it provides or intends to provide indices which are used or intended to be used as critical benchmarks, as significant benchmarks, as EU Climate Transition Benchmarks **or** as EU Paris-aligned Benchmarks;

Amendment

(a) authorisation where it provides or intends to provide indices which are used or intended to be used as critical benchmarks, as significant benchmarks, **commodity benchmarks subject to Annex II**, as EU Climate Transition Benchmarks, as EU Paris-aligned Benchmarks **or as ESG Benchmarks**;

Or. en

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a

Regulation (EU) No 2016/1011

Article 34 – paragraph 1 – point b

Text proposed by the Commission

(b) registration where it is a supervised entity, other than an administrator, that provides or intends to provide indices which are used or intended to be used as significant benchmarks, as EU Climate Transition Benchmarks **or** EU Paris-aligned Benchmarks, provided that the activity of provision of a benchmark is not prevented by the sectoral discipline applying to the supervised entity and that none of the indices provided would qualify as a critical benchmark.;

Amendment

(b) registration where it is a supervised entity, other than an administrator, that provides or intends to provide indices which are used or intended to be used as significant benchmarks, as EU Climate Transition Benchmarks, EU Paris-aligned **Benchmarks or as ESG** Benchmarks, provided that the activity of provision of a benchmark is not prevented by the sectoral discipline applying to the supervised entity and that none of the indices provided would qualify as a critical benchmark.;

Or. en

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a a (new)

Regulation (EU) No 2016/1011

Article 34 – paragraph 1a

Present text

1a. Where one or more of the indices provided by the person referred to in paragraph 1 would qualify as critical benchmarks as referred to in points (a) and (c) of Article 20(1), the application shall be addressed to ESMA.

Amendment

(aa) paragraph 1a is amended as follows:

"1a. Where one or more of the indices provided by the person referred to in paragraph 1 would qualify as critical benchmarks as referred to in points (a) and (c) of Article 20(1), **or as significant benchmarks as referred to Article 24(2), (5) and (6), or if the person envisages endorsing benchmarks as referred to in Article 33,** the application shall be addressed to ESMA."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point b

Regulation (EU) No 2016/1011

Article 34 – paragraph 3

Text proposed by the Commission

3. The application referred to in paragraph 1 shall be made within 30 working days of any agreement entered into by a supervised entity to use an index provided by the applicant as a reference **to** a financial instrument or financial contract or to measure the performance of an investment fund, or within the time limits set out in Article 24a(2) and (3), as applicable.;

Amendment

3. The application referred to in paragraph 1 shall be made within 30 working days of any agreement entered into by a supervised entity to use an index provided by the applicant as a reference **in** a financial instrument or financial contract or to measure the performance of an investment fund, or within the time limits set out in Article 24a(2) and (3), as applicable.;

Or. en

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 16 a (new)

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – points a to c

Text proposed by the Commission

1. ESMA shall establish and maintain a public register that contains the following information:

(a) the identities of the administrators authorised or registered pursuant to Article 34 and the competent authorities responsible for the supervision thereof;

(b) the identities of administrators that comply with the conditions laid down in Article 30(1), the list of benchmarks referred to in point (c) of Article 30(1) and the third country competent authorities responsible for the supervision thereof;

(c) the identities of the administrators that acquired recognition in accordance with Article 32, the list of benchmarks referred to in Article 32(7) and, where applicable, the third country competent authorities responsible for the supervision thereof;

Amendment

(16a) Article 36(1), points (a) to (c), are amended as follows:

"1. ESMA shall establish and maintain a public register that contains the following information:

(a) the identities ***including the Legal Entity Identifier (LEI)*** of the administrators authorised or registered pursuant to Article 34 and the competent authorities responsible for the supervision thereof;

(b) the identities ***including the LEI*** of administrators that comply with the conditions laid down in Article 30(1), the list of benchmarks ***including their International Securities Identification Numbers (ISINs)*** referred to in point (c) of Article 30(1) and the third country competent authorities responsible for the supervision thereof;

(c) the identities ***including the LEI*** of the administrators that acquired recognition in accordance with Article 32, the list of benchmarks ***including their ISINs*** referred to in Article 32(7) and, where applicable, the third country competent authorities responsible for the supervision thereof;"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – introductory part

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – points e to j

Text proposed by the Commission

(17) in Article **36(1)**, the following points (e) to **(j)** are added:

Amendment

(17) in Article **36, (1)**, the following points are added:

Or. en

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point e

Text proposed by the Commission

(e) the benchmarks subject to a statement published by ESMA or a competent authority pursuant to Article 24(2), and the hyperlinks to such statements;

Amendment

(e) the benchmarks, ***including their ISINs***, subject to a statement published by ESMA or a competent authority pursuant to Article 24(2), and the hyperlinks to such statements;

Or. en

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point f

Text proposed by the Commission

(f) the benchmarks subject to designations by competent authorities notified to ESMA pursuant to Article 24(4), and the hyperlinks to such designations;

Amendment

(f) the benchmarks, ***including their ISINs***, subject to designations by competent authorities notified to ESMA pursuant to Article 24(4), and the hyperlinks to such designations;

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point g

Text proposed by the Commission

(g) the benchmarks subject to designations by ESMA, and the hyperlinks to such designations;

Amendment

(g) the benchmarks, ***including their ISINs***, subject to designations by ESMA, and the hyperlinks to such designations;

Or. en

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point h

Text proposed by the Commission

(h) the benchmarks subject to public notices issued by ESMA and competent authorities pursuant to Article 24a(5), and the hyperlinks to such public notices.;

Amendment

(h) the benchmarks, ***including their ISINs***, subject to public notices issued by ESMA and competent authorities pursuant to Article 24a(5), and the hyperlinks to such public notices.;

Or. en

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point i

Text proposed by the Commission

(i) the list of EU Climate Transition

Amendment

(i) the list of EU Climate Transition

Benchmarks and EU Paris-aligned
Benchmarks available for use in the Union;

Benchmarks and EU Paris-aligned
Benchmarks, ***including their ISINs***,
available for use in the Union;

Or. en

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 1 – point j

Text proposed by the Commission

(j) the list of critical benchmarks;

Amendment

(j) the list of critical benchmarks,
including their ISINs;

Or. en

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 3 – point j a (new)

Text proposed by the Commission

Amendment

***(ja) the list of ESG Benchmarks,
including their ISINs, available for use in
the Union’;***

Or. en

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EU) No 2016/1011

Article 36 – paragraph 3 – point j b (new)

Text proposed by the Commission

Amendment

(jb) the list of commodity benchmarks subject to Annex II available for use in the Union.

Or. en

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 17 a (new)

Regulation (EU) No 2016/1011

Article 40 – paragraph 1

Present text

Amendment

1. For the purposes of this Regulation, ESMA shall be the competent authority for:

(a) administrators of critical benchmarks as referred to in points (a) and (c) of Article 20(1);

(b) administrators of the benchmarks referred to in Article 32.

(17a) Article 40(1) is amended as follows:

"1. For the purposes of this Regulation, ESMA shall be the competent authority for:

(a) administrators of critical benchmarks as referred to in points (a) and (c) of Article 20(1);

(b) administrators of the benchmarks referred to in Article 32;

(c) administrators of the benchmarks that are significant within the Union as referred to in Article 24(2), (5) and (6);

(d) administrators endorsing benchmarks provided in a third country according to Article 33."

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 19 a (new)

Present text

1. Where, in accordance with Article 48i(5), ESMA finds that a person has committed one of the infringements listed in point (a) of Article 42(1), it shall take one or more of the following actions

Amendment

(19a) in Article 48e(1), the introductory part is amended as follows:

"1. Where, in accordance with Article 48i(5), ESMA finds that a person has committed one of the infringements listed in point (a) of Article 42(1), **or any failure to cooperate or comply in an investigation or with an inspection or request covered by Section 1 of this Chapter**, it shall take one or more of the following actions:"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 19 b (new)

Regulation (EU) No 2016/1011

Article 48f – paragraph 1 – subparagraph 1

Present text

1. Where, in accordance with Article 48i(5), ESMA finds that any person has, intentionally or negligently, committed one or more of the infringements listed in point (a) of Article 42(1), it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article. ***An infringement shall be considered to have been committed intentionally if ESMA finds objective factors which demonstrate that a person acted deliberately to commit the infringement.***

Amendment

(19b) in Article 48f(1), the first subparagraph is replaced by the following:

"1. Where, in accordance with Article 48i(5), ESMA finds that any person has, intentionally or negligently, committed one or more of the infringements listed in point (a) of Article 42(1), **or any failure to cooperate or comply in an investigation or with an inspection or request covered by Section 1 of this Chapter**, it shall adopt a decision imposing a fine in accordance with paragraph 2 of this Article."

Or. en

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EU) No 2016/1011

Article 51 – paragraph 4c

Text proposed by the Commission

4c. Competent authorities and ESMA ***shall ensure that*** benchmark administrators that were authorised, registered, endorsed or recognised on [PO please insert the date = date of application of this amending Regulation] ***can benefit from a simplified procedure*** where ***they apply*** for authorisation registration, recognition, or endorsement pursuant to Article 24a(1), (2), or (3), as applicable, ***by ... [PO please insert the date = date of application of this amending Regulation + two years];***

Amendment

4c. Competent ***national*** authorities ***intending to designate a benchmark provided by an administrator that was included in the ESMA register on ...[date of application of this amending Regulation – 1 day]*** and ESMA ***intending to designate a benchmark that was included in the ESMA register or the administrator of which was included in the ESMA register on ...[date of application of this amending Regulation – 1 day]*** shall do so by ... ***[six months from the date of application of this amending Regulation].***

Benchmark administrators that were authorised, registered, endorsed or recognised on ...[date of application of this amending Regulation] ***shall retain this status for six months after entry into application of this amending regulation.*** Where ***one or more of their benchmarks are designated by ... [within six months after the date of application of this amending Regulation], the designated administrators shall not be obliged to re-apply*** for authorisation registration, recognition, or endorsement pursuant to Article 24a(1), (2), or (3), as applicable. ’;

Administrators of significant benchmarks that were authorised, registered, endorsed or recognised on ...[date of application of this amending Regulation] shall not be obliged to re-apply for authorisation registration, recognition, or endorsement pursuant to Article 24a(1) where one or more of their benchmarks are significant

pursuant to Art. 24(1)(a).’

Or. en

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 21 a (new)

Regulation (EU) No 2016/1011

Article 53 – paragraph 1

Present text

Amendment

(21a) Article 53, paragraph 1 is deleted

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R1011-20220101>)