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Von: [redacted]
Gesendet: Donnerstag, 6. Juni 2024 13:00
An: [redacted]
Cc:
Betreff: Benchmark Regulierung (BMR): Anmerkungen für Trilog-Verhandlungen
Anlagen: 240502 - FESE considerations on the BMR review for trilogues.pdf; Benchmarks regulation_FESE comments.docx

Lieber [redacted],

im Zuge der anstehenden Trilogverhandlungen zum aktuellen BMR Überprüfung haben wir erfahren, dass der Ratsvorsitz bis zum 11. Juni Eingaben aller Mitgliedsstaaten zu den Legislativvorschlägen einholt. Wir möchten diese Gelegenheit nutzen, um unsere Standpunkte und Bedenken zu dieser wichtigen Regulierung mit Ihnen zu teilen.

Im Allgemeinen begrüßen wir es, den Anwendungsbereich der BMR unter Wahrung der Finanzstabilität und im Einklang mit der wirtschaftlichen Bedeutung für den Unionsmarkt neu zu kalibrieren, allerdings haben wir insbesondere hinsichtlich des vorgeschlagenen "Designation"-Regimes große Bedenken.

Vor diesem Hintergrund sind wir der Auffassung, dass das „Designation"-Regime im Vergleich zu einem Anwendungsbereich, der auf klaren quantitativen Schwellenwerten basiert, unnötige Komplexität und Unsicherheit einführt. Dies steht im Widerspruch zum Ziel der BMR Überprüfung, die aktuellen regulatorischen sowie Compliance-Belastungen zu straffen und zu reduzieren. Die Kriterien der "Substituierbarkeit" und "nachteiligen Auswirkungen" sind interpretationsfähig, was zusammen mit der Gewährung von Befugnissen an nationale Behörden, Wettbewerbsbedenken aufwerfen könnte. Ähnliche Benchmarks von verschiedenen Administratoren könnten in der gesamten EU unterschiedlichen Bedingungen unterliegen. In diesem Zusammenhang sprechen wir uns dafür aus, das "Designation Regime" entweder vollständig zu entfernen, regulierte Datenbenchmarks auszunehmen oder zumindest eine minimale quantitative Schwelle einzuführen.

Abgesehen davon haben wir weitere kritischen Punkte identifiziert. Nachstehend fassen wir diese für Sie zusammen, wohingegen Sie im Anhang die betreffenden Passagen mit unserer detaillierten Kommentierung finden.

- Das "Designation"-Regime für signifikante Benchmarks sollte entfernt werden. Wenn es beibehalten wird, sollten regulierte Daten-Benchmarks davon ausgenommen werden oder zumindest eine minimale quantitative Schwelle eingeführt werden.
- Die Vorschläge des EU Parlaments zum Querverweis auf die SFDR und zur Änderung der Namen der mit CTP und PAB gekennzeichneten Benchmarks bereiten uns Sorgen. Wir haben auch Bedenken gegenüber der Einführung einer ESG-Sorgfaltspflicht, wie sie von den Mitgesetzgebern vorgeschlagen wurde.
- Wir sind nicht einverstanden mit den Vorschlägen des EU Parlaments, die ESMA als zuständige Behörde für die Aufsicht, Genehmigung und Bezeichnung sowohl von EU-Benchmarks, die "signifikant innerhalb der Union" sind, als auch von solchen, die CTB/PAB-Label verwenden, zu ernennen.
- Wir unterstützen den Vorschlag des EU Parlaments, die ESMA mit der Ausarbeitung von RTS zu beauftragen, die die Berechnungsmethode für die Schwelle von 50 Milliarden Euro spezifizieren.
- Der Vorschlag des EU Parlaments sollte hinsichtlich der Befreiung von kleinen Rohstoff-Benchmarks auf Rohstoff-Benchmarks ausgeweitet werden, die nicht "contributor based" sind, und die Gesamtnotierungsschwelle auf 500 Millionen Euro erhöhen.
- Wir würden dem Vorschlag des EU Parlaments nicht zustimmen, die 'Äquivalenz' als Zugangsweg zu entfernen, wenn die Benchmark durch die "Designation"-Methode als bedeutend eingestuft wird.

Die Dokumente im Anhang haben wir im Rahmen unserer FESE-Zusammenarbeit mit anderen Verbandsmitgliedern zusammengetragen, wobei sie auch mit anderen Ratsmitgliedern geteilt werden. In diesem Sinne hoffen wir, dass diese Argumente auch für Sie bei Beratungen und Ratsabstimmungen zur Gestaltung der künftigen BMR hilfreich sind.

Für Rückfragen sowie ein Gespräch stehen wir Ihnen gerne zur Verfügung.

Vielen Dank und beste Grüße
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EU Transparency Register No. 20884001341-42

FESE considerations on the BMR Review for trilogues

Thursday 2nd May 2024

1. Concerns and proposals on the designation regime for significant benchmarks

The designation regime introduces unnecessary complexity and uncertainty compared to a scope based on clear quantitative thresholds, such as the EUR 50 billion threshold. This runs counter to the goal of the BMR review to streamline and reduce current regulatory and compliance burdens. The criteria of 'substitutability' and 'significant and adverse impacts' are open to interpretation which, together with granting designation powers to national authorities, risks raising competition concerns. Similar benchmarks from different administrators could end up subject to different conditions across the EU. Benchmarks with higher visibility for a local economy are more likely to be designated, while comparable benchmarks from other countries may not be. Notably, there are benchmarks particularly susceptible to this distortion of competition, for instance, due to higher replicability.

In this context, we strongly encourage policymakers to consider the following options (ranked in order of preference):

(1) **Removing the designation-based regime**: Deleting the regime would be the best solution to (i) introduce simplicity and objectivity into the framework, (ii) prevent unfair competition between EU and non-EU benchmark administrators, (iii) remove at once interpretative challenges related to the criteria and (iv) provide administrators with the ability to anticipate benchmark classifications;

(2) **Excluding regulated-data benchmarks**: If the designation-based regime is retained, we suggest exempting 'regulated-data benchmarks' from it. These benchmarks, defined in Article 3(24), are less prone to market manipulation, given that their inputs come from already heavily regulated entities. Besides, the designation-linked risk of divergent treatment is particularly acute for them due to their ease of replicability. They are particularly susceptible to unfair competition, being offered by administrators both within and outside Europe.

(3) **Inclusion of a quantitative threshold**: At the very least, a minimum quantitative threshold should be considered as part of the designation criteria. The draft ECON Committee texts had initially included such a threshold, set at EUR 20 million, until the later stages of the negotiations. This provision would offer some clarity for benchmark administrators, particularly concerning smaller benchmarks with no systematic risk. Besides, it would fully align with the overarching goal of the BMR review to streamline the regulation's scope.

In both options (2) and (3), it would also be beneficial to further specify criteria for the designation-based regime to ensure a common approach among NCAs. We believe that the powers of NCAs in the designation process should be guided by the coordinating role of ESMA to strengthen supervisory convergence.

2. ESMA RTS on calculation method for EUR 50 billion threshold

We would support EP's proposal to task ESMA with drafting RTS specifying the calculation method for EUR 50 billion threshold [EP's Art. 24(7)(i)]. The lack of clarity surrounding the calculation of this threshold requires resolution to allow administrators to know which benchmarks will be in scope. As it stands, the process may be time-consuming and labour-intensive. While we support further standardisation and clarification of calculation methods, criteria and sources, we have reservations about a new calculation methodology as it could be disruptive for benchmark administrators and the market. An approach encompassing ESMA draft RTS would leverage ESMA's expertise and ensure consultation with market participants.

3. Concerns on potential ESG-related requirements and usage provisions

SFDR cross-references

We are particularly concerned about the Parliament's suggestion that all methodology disclosure requirements should seek coherence with Art. 10 of the SFDR [EP's Art. 29(1ba)]. Cross-references to SFDR would be legally unfeasible and may mistakenly subject benchmark administrators to the SFDR. In addition, this risk is compounded by the fact that Art. 10 SFDR on transparency on websites, mandates the publication of information referenced in several SFDR articles, including 8, 9 and 11.

As a general observation, we propose waiting for the expected Commission reviews (either through BMR or SFDR) before introducing additional ESG aspects to the proposal. Besides, while we support the prevention of greenwashing, we caution against proposals that could potentially impinge on the administrators' freedom to design their own methodologies. Furthermore, the current regulation already mandates that administrators provide sufficient info on the ESG aspects. The proposed amendments by Parliament would significantly disrupt the industry, leading to increased regulatory burdens and costly adaptations for benchmark administrators without a clear understanding of the ultimate regulatory goal.

CTB and PAB names

We do not support the Parliament's requirements regarding the inclusion of 'EU CTB' and 'EU PAB' in the names of ESG benchmarks [EP's Art. 19(4a)]. This would unnecessarily burden administrators with administrative tasks, such as updating all documentation: public registers, contracts, etc., without a clear regulatory purpose. These indices are already adequately labelled, with administrators offering benchmarks including the name Paris-Aligned (PAB) and Climate Transition (CTB) Benchmark, which is already well recognised in the industry. The addition of 'EU' could be up to the administrator.

ESG diligence requirement

We urge reconsideration of the proposal suggested by both the Council and Parliament to prohibit the use of benchmarks that claim to incorporate an ESG element when their administrator has not made the required disclosures [EP's Art. 29(1a)]. While we appreciate the efforts to reduce the administrative burden on administrators, this initiative would only shift this burden to users in the EU, putting them at a disadvantage by having no way to compel administrators to make such disclosures. Verifying this information for each underlying benchmark used for their products is a very difficult task for users, which might even become repetitive as administrators' methodologies may evolve over time. Additionally, users do not have access to the full data set of contributors providing input data to a benchmark. Hence, we doubt that the overarching objective of reducing the overall administrative burden will be achieved and we ask co-legislators to reassess proposals moving in this direction.

4. NCA supervision for EU benchmarks & ESMA for non-EU benchmarks

We would advocate against the Parliament's suggestions to appoint ESMA as the competent authority for supervision, authorisation, and designation of both 'EU benchmarks significant within the Union' [EP's Art. 40(1)(c) and Art. 24(2),(5)&(6)] **and EU benchmarks using CTB/PAB labels** [EP's Art. 40(1)(e)]. EU administrators would have a preference towards NCA supervision over their benchmarks, given the current expertise developed by NCAs and that no failure has been shown to justify any change in this construct. In addition, having both ESMA and NCAs simultaneously supervising EU administrators for different benchmarks would unnecessarily increase complexity in the supervisory framework.

Conversely, **for non-EU benchmark administrators, we see the benefit of having ESMA as the centralised competent authority for both their significant and CTB/PAB-labelled benchmarks** [EP's Art. 40(b),(d)&(e)] as well as the possibility for ESMA to designate them in their own initiative [EP's Art. 24(6)]. This would introduce further simplicity in the authorisation and supervision frameworks for non-EU administrators, regardless of their access method (i.e. including endorsement).

In essence, we propose an authorisation/supervisory framework where NCAs are the competent authorities for any EU benchmarks, whereas ESMA will oversee non-EU benchmarks, with this division also applying to CTB/PAB labels. That said, ESMA's coordinating role to ensure supervisory convergence between EU and non-EU benchmarks should be retained to ensure a level playing field.

5. Extended exemption for small commodity benchmarks

We take note of the suggestions from the co-legislators to include Annex II benchmarks in scope and welcome the reintroduction of the exemption for small commodity benchmarks [Art. 2(2)(g)]. In this context, **we would have a preference towards the EP's proposal which removes the first condition Art. 2(g)(i) concerning the request for admission to trading, or the actual trading, in one trading venue.**

However, we believe that the scope of the BMR exemption for small commodities falls short of the general policy objective to rationalise the BMR application. Therefore, in addition to the EP proposal, we would suggest considering the following changes:

- **Clarifying that the extension should also apply to small commodity benchmarks that are not contributor-based**, whose existence seems to be neglected in the current BMR text. These benchmarks are based on data publicly available, and hence less prone to manipulation.
- **Increasing the total notional value threshold from EUR 100 million to EUR 500 million** to account for the price volatility to which commodity markets are subject, which makes the notional value a non-common benchmark for market participants (who typically look at 'lots' instead). A higher threshold of 500 million would provide some relief, allowing for more flexibility in these volatile commodity markets.

We find Europex's press release on the subject especially helpful in illustrating these suggestions (available here).

6. Retention of 'equivalence' as exemption in designation

We would not support the Parliament's proposal to remove 'equivalence' as an exemption for the third-country administrators to apply for ESMA recognition or endorsement if the benchmark is considered significant through the designation method [Art. 24a(3)]. In our opinion, this proposal would de facto eliminate 'equivalence' as an access path, which would be a disproportionate and ultimately burdensome approach, inconsistent with the intended policy objectives of the review.

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 (Text with EEA relevance)

2023/0379(COD)
DRAFT [Draft 21.05.2024]
21-05-2024 at 19h25

	Commission Proposal	EP Mandate	Council Mandate	MS comments
1	2023/0379 (COD)	2023/0379 (COD)	2023/0379 (COD)	
2	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 (Text with EEA relevance)	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 (Text with EEA relevance)	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 (Text with EEA relevance)	
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
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	Commission Proposal	EP Mandate	Council Mandate	MS comments
	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
7	Having regard to the opinion of the European Central Bank[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Central Bank[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Central Bank[1], _____ 1. OJ C , , p. .	
8	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C , , p. .	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C , , p. .	
9	Acting in accordance with the ordinary legislative procedure[1], _____ 1. OJ C , , p. .	Acting in accordance with the ordinary legislative procedure[1], _____ 1. OJ C , , p. .	Acting in accordance with the ordinary legislative procedure[1], _____ 1. OJ C , , p. .	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
10	Whereas:	Whereas:	Whereas:	
11	(1) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline those requirements in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.	(1) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline those requirements in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.	(1) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline those requirements in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.	
12	(2) Under Regulation (EU) 2016/1011 of the European Parliament and of the Council[1], 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	(2) Under Regulation (EU) 2016/1011 of the European Parliament and of the Council[1], 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	(2) Under Regulation (EU) 2016/1011 of the European Parliament and of the Council[1], 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*~~***disclosures related to the methodology and the*** benchmark statement ~~*disclosures*~~.	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	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. _____ 1. 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).	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[1], 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. _____ 1. 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).	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. _____ 1. 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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	Commission Proposal	EP Mandate	Council Mandate	MS comments
		<u>(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 whose benchmarks do not meet the threshold of a significant benchmark and who wish to obtain a regulatory licence under Regulation (EU) 2016/1011 should not be prohibited from doing so.</u>		
13	(3) Under Article 18a of Regulation (EU) 2016/1011, the Commission can exempt certain spot foreign exchange benchmarks from the scope of that Regulation to ensure their continued availability for use in the Union. In view of the need for a revised and narrower focus of Regulation (EU) 2016/1011 on critical benchmarks, significant benchmarks, EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks, there is no longer a need for the specific exemption regime for spot foreign exchange benchmarks..	(3) Under Article 18a of Regulation (EU) 2016/1011, the Commission can exempt certain spot foreign exchange benchmarks from the scope of that Regulation to ensure their continued availability for use in the Union. In view of the need for a revised and narrower focus of Regulation (EU) 2016/1011 on critical benchmarks, significant benchmarks, EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks, there is no longer a need for the specific exemption regime for spot foreign exchange benchmarks.~~.~~	(3) Under Article 18a of Regulation (EU) 2016/1011, the Commission can exempt certain spot foreign exchange benchmarks from the scope of that Regulation to ensure their continued availability for use in the Union. In view of the need for a revised and narrower focus of Regulation (EU) 2016/1011 on critical benchmarks, significant benchmarks, EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks, there is no longer a need for the specific exemption regime for spot foreign exchange benchmarks..	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
14	(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 ~~*by 1 January 2022. As this date has elapsed, it is appropriate to delete this provision*~~***to establish minimum standards for climate benchmarks and to provide a comprehensive supply of climate indices in the Union***.	(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.	
15	(5) The criteria for assessing whether a benchmark is a significant benchmark are currently laid down in Article 24 of Regulation (EU) 2016/1011. Benchmarks will be considered to be significant, inter alia where they meet the threshold laid down in Article 24(1), point (a), of that Regulation.	(5) The criteria for assessing whether a benchmark is a significant benchmark are currently laid down in Article 24 of Regulation (EU) 2016/1011. Benchmarks will be considered to be significant, inter alia where they meet the threshold laid down in Article 24(1), point (a), of that Regulation.	(5) The criteria for assessing whether a benchmark is a significant benchmark are currently laid down in Article 24 of Regulation (EU) 2016/1011. Benchmarks will be considered to be significant, inter alia where they meet the threshold laid down in Article 24(1), point (a), of that Regulation.	
16	(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	(6) Benchmark administrators ~~*are best placed to*~~***should*** monitor the use in the Union of the benchmarks they provide~~*. They should therefore*~~ ***and*** notify the competent authority concerned or the European	(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	We support EP's proposal to task ESMA with drafting RTS specifying the calculation method for EUR 50 billion threshold. The lack of clarity surrounding the calculation of this threshold requires

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	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	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*~~***However, it is challenging to calculate*** 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*~~***threshold, especially at*** 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*~~ ***level. To ensure the consistent implementation of that*** threshold ~~*has been exceeded, the competent authorities concerned or ESMA, as appropriate,*~~***ESMA***	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*~~***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. 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	resolution to allow administrators to know which benchmarks will be in scope. A new calculation methodology could also be disruptive for benchmark administrators and the market. An approach encompassing ESMA draft RTS would leverage ESMA's expertise and ensure consultation with market participants.

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	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.	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*~~***develop draft regulatory technical standards to specify further the calculation method. Furthermore, administrators of benchmarks used in the Union should endeavour to obtain a globally agreed identifier code to identify*** their benchmarks ~~*has exceeded the applicable threshold.*~~.	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.	
16a		***(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 from the day they submitted such a notification. In addition, benchmark administrators should provide the competent authorities concerned or ESMA, upon request, with all information necessary to***		

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		assess that benchmark's aggregate use in the Union.		
16b		***(6b) Where a benchmark administrator omits or refuses to notify the competent authorities that the use 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 competent authorities or ESMA to impose administrative sanctions on administrators that fail to notify that one of their benchmarks has exceeded the applicable threshold.***		
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	Commission Proposal	EP Mandate	Council Mandate	MS comments
	(7) Markets, prices and the regulatory environment evolve over time. To take those evolutions into account, the Commission should be empowered to further specify the methodology to be used by administrators and competent authorities to calculate the total value of financial instruments, financial contracts or investment funds referencing a benchmark.	(7) Markets, prices and the regulatory environment evolve over time. To take those evolutions into account, the Commission should be empowered to further specify the methodology to be used by administrators and competent authorities to calculate the total value of financial instruments, financial contracts or investment funds referencing a benchmark.	(7) Markets, prices and the regulatory environment evolve over time. To take those evolutions into account, the Commission should be empowered to further specify the methodology to be used by administrators and competent authorities to calculate the total value of financial instruments, financial contracts or investment funds referencing a benchmark.	
18	(8) However, in exceptional cases, there may be benchmarks with an aggregate use below the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011 which, due to the specific situation in the market of a Member State, are nevertheless of such importance to that Member State that any lack of reliability would be of comparable impact as that of a benchmark the usage of which exceeds that threshold. For that reason, the competent authority of that Member State should be able to designate such a benchmark, where that benchmark is provided by an EU administrator, as significant on the basis of a set of qualitative criteria. For benchmarks provided by a non-EU administrator, it should be ESMA that, on the request of one or more competent	(8) However, in exceptional cases, there may be benchmarks with an aggregate use below the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011 which, due to the specific situation in the market of a Member State, are nevertheless of such importance to that Member State that any lack of reliability would be of comparable impact as that of a benchmark the usage of which exceeds that threshold. For that reason, the competent authority of that Member State should be able to designate such a benchmark, where that benchmark is provided by an EU administrator, as significant on the basis of a set of qualitative criteria. For benchmarks provided by a non-EU administrator, it should be ESMA that, on the request of one or more competent	(8) However, in exceptional cases, there may be benchmarks with an aggregate use below the threshold laid down in Article 24(1), point (a), of Regulation (EU) 2016/1011 which, due to the specific situation in the market of a Member State, are nevertheless of such importance to that Member State that any lack of reliability would be of comparable impact as that of a benchmark the usage of which exceeds that threshold. For that reason, the competent authority of that Member State should be able to designate such a benchmark, where that benchmark is provided by an EU administrator, as significant on the basis of a set of qualitative criteria. For benchmarks provided by a non-EU administrator, it should be ESMA that, on the request of one or more competent authorities,	

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	authorities, designates such a benchmark as a significant benchmark.	authorities, designates such a benchmark as a significant benchmark.	designates such a benchmark as a significant benchmark~~.~~	
19	(9) To ensure the consistency and coordination of national designations of benchmarks as significant benchmarks, competent authorities intending to designate a benchmark as significant should consult ESMA. For the same reason, a competent authority of a Member State that intends to designate as significant a benchmark that is provided by an administrator that is located in another Member State should also consult the competent authority of that other Member State. Where competent authorities disagree which among them should designate and supervise a benchmark, ESMA should settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[1]. _____ 1. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).	(9) To ensure the consistency and coordination of national designations of benchmarks as significant benchmarks, competent authorities intending to designate a benchmark as significant should consult ESMA. For the same reason, a competent authority of a Member State that intends to designate as significant a benchmark that is provided by an administrator that is located in another Member State should also consult the competent authority of that other Member State. Where competent authorities disagree which among them should designate and supervise a benchmark, ESMA should settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[1]. _____ 1. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing	(9) To ensure the consistency and coordination of national designations of benchmarks as significant benchmarks, competent authorities intending to designate a benchmark as significant should consult ESMA. For the same reason, a competent authority of a Member State that intends to designate as significant a benchmark that is provided by an administrator that is located in another Member State should also consult the competent authority of that other Member State. Where competent authorities disagree which among them should designate ~~*and supervise*~~ a benchmark, ESMA should settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[1]. ***The competent authority of the administrator's home Member State may always reach cooperation agreements on delegation of tasks under this Regulation either with the designating competent authority or with ESMA as laid down in Article 37 of Regulation (EU) 2016/1011.***	

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		Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).	___________ 1. Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).	
20	(10) To respect the right to be heard, a competent authority or ESMA should, before designating a benchmark as significant, allow the administrator of that benchmark to provide any useful information relevant to its designation.	(10) To respect the right to be heard, a competent authority or ESMA should, before designating a benchmark as significant, allow the administrator of that benchmark to provide any useful information relevant to its designation.	(10) To respect the right to be heard, a competent authority or ESMA should, before designating a benchmark as significant, allow the administrator of that benchmark to provide any useful information relevant to its designation.	
21	(11) For the designation as a significant benchmark to be as transparent as possible, competent authorities or ESMA should issue a designation decision containing the reasons why that benchmark is considered significant. Competent authorities should publish the designation decision on their website and should notify that decision to ESMA. For the same reasons, where ESMA designates a benchmark as significant upon a request of a competent authority, ESMA should publish the designation decision on its website	(11) For the designation as a significant benchmark to be as transparent as possible, competent authorities or ESMA should issue a designation decision containing the reasons why that benchmark is considered significant. Competent authorities should publish the designation decision on their website and should notify that decision to ESMA. For the same reasons, where ESMA designates a benchmark as significant upon a request of a competent authority, ESMA should publish the designation decision on its website	(11) For the designation as a significant benchmark to be as transparent as possible, competent authorities or ESMA should issue a designation decision containing the reasons why that benchmark is considered significant. Competent authorities should publish the designation decision on their website and should notify that decision to ESMA. For the same reasons, where ESMA designates a benchmark as significant upon a request of a competent authority, ESMA should publish the designation decision on its website	

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	and should notify the requesting competent authority thereof.	and should notify the requesting competent authority thereof.	and should notify the requesting competent authority thereof.	
22	(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.	(12) EU Climate Transition Benchmarks ***(EU-CTB)*** and EU Paris-aligned Benchmarks ***(EU-PAB)*** are specific categories of benchmarks, defined by their compliance with rules governing their methodology and the ~~*disclosures their administrator are to make*~~***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*** ~~*or authorisation*~~, as appropriate, and to supervision.	(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***, authorisation, recognition or endorsement*** ~~*or authorisation*~~, as appropriate, and to supervision.	We agree with the EP and Council to allow EU ESG labels to be accessible for recognised and endorsed third-country administrators.
22a		***(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***	***(12a) The regulatory treatment of commodity benchmarks should be tailored to their specific characteristics. Commodity benchmarks subject to the general rules for financial benchmarks should be treated identically to other financial benchmarks and should be covered by the regulation***	

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		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.	***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 the regulation should always be covered by the regulation as the methods of data gathering for and production of the benchmark offer fewer safeguards for its robustness.***	
23	(13) To ensure the timely start of the supervision of significant benchmarks, administrators of benchmarks that have become significant either by reaching the applicable quantitative threshold or by designation, should be required to seek, within 60 working days, authorisation or registration or, in the case of benchmarks provided by an administrator located in a third-country, endorsement or recognition.	(13) To ensure the timely start of the supervision of significant benchmarks, administrators of benchmarks that have become significant either by reaching the applicable quantitative threshold or by designation, should be required to seek, within 60 working days, authorisation or registration or, in the case of benchmarks provided by an administrator located in a third-country, endorsement or recognition.	(13) To ensure the timely start of the supervision of significant benchmarks, administrators of benchmarks that have become significant either by reaching the applicable quantitative threshold or by designation, should be required to seek, within 60 working days, authorisation or registration or, in the case of benchmarks provided by an administrator located in a third-country, endorsement or recognition.	
24	(14) To mitigate the risks linked to the use of benchmarks that are potentially not safe for use in the Union, and to warn potential users, competent authorities and ESMA should be able to issue a warning under the form of a public notice	(14) To mitigate the risks linked to the use of benchmarks that are potentially not safe for use in the Union, and to warn potential users, competent authorities and ESMA should be able to issue a warning under the form of a public notice	(14) To mitigate the risks linked to the use of benchmarks that are potentially not safe for use in the Union, and to warn potential users, competent authorities and ESMA should be able to issue a warning under the form of a public notice	

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	that the administrator of a significant benchmark does not comply with the applicable requirements, in particular as regards the compliance with the obligation for the benchmark administrator to be authorised, registered, endorsed or recognised, as applicable. Once such a warning has been issued, supervised entities should no longer be able to add new references to such benchmarks or combination of benchmarks. Similarly, to prevent the risks entailed by the use of benchmarks that claim compliance with the EU Climate Transition and EU Paris-aligned labels without being subject to adequate supervision, supervised entities should neither be able to 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 ESMA's register of administrators and benchmarks.	that the administrator of a significant benchmark does not comply with the applicable requirements, in particular as regards the compliance with the obligation for the benchmark administrator to be authorised, registered, endorsed or recognised, as applicable. Once such a warning has been issued, supervised entities should no longer be able to add new references to such benchmarks or combination of benchmarks. Similarly, to prevent the risks entailed by the use of benchmarks that claim compliance with the EU Climate Transition and EU Paris-aligned labels without being subject to adequate supervision, supervised entities should neither be able to 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 ESMA's register of administrators and benchmarks.	that the administrator of a significant benchmark does not comply with the applicable requirements, in particular as regards the compliance with the obligation for the benchmark administrator to be authorised, registered, endorsed or recognised, as applicable. Once such a warning has been issued, supervised entities should no longer be able to add new references to such benchmarks or combination of benchmarks. Similarly, to prevent the risks entailed by the use of benchmarks that claim compliance with the EU Climate Transition and EU Paris-aligned labels without being subject to adequate supervision, supervised entities should neither be able to 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 ESMA's register of administrators and benchmarks.	
25	(15) To avoid potentially excessive market disruptions following the prohibition of the use of a benchmark, competent authorities or ESMA should be able to allow the temporary continued use of such	(15) To avoid potentially excessive market disruptions following the prohibition of the use of a benchmark, competent authorities or ESMA should be able to allow the temporary continued use of such	(15) To avoid potentially excessive market disruptions following the prohibition of the use of a benchmark, competent authorities or ESMA should be able to allow the temporary continued use of such a	

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	a benchmark. To ensure a sufficient level of transparency and protection vis-à-vis end-investors, users of those benchmarks that are subject to a warning under the form of a public notice should identify a suitable alternative to replace those benchmarks within 6 months following the publication of that public notice, or otherwise ensure that clients are appropriately informed of the lack of an alternative benchmark.	a benchmark. To ensure a sufficient level of transparency and protection vis-à-vis end-investors, users of those benchmarks that are subject to a warning under the form of a public notice should identify a suitable alternative to replace those benchmarks within 6 months following the publication of that public notice, or otherwise ensure that clients are appropriately informed of the lack of an alternative benchmark.	benchmark. To ensure a sufficient level of transparency and protection vis-à-vis end-investors, users of those benchmarks that are subject to a warning under the form of a public notice should identify a suitable alternative ~~*to replace*~~***for*** those benchmarks within 6 months following the publication of that public notice, or otherwise ensure that clients are appropriately informed of the lack of an alternative benchmark.	
26	(16) Under Article 32 of Regulation (EU) 2016/1011, recognition of benchmark administrators located in a third country serves as a temporary means of access to the Union market pending the adoption of an equivalence decision by the Commission. However, given the very limited number of third-country benchmarks covered by equivalence decisions, such recognition should become a permanent means of access to the Union market for such benchmark administrators.	(16) Under Article 32 of Regulation (EU) 2016/1011, recognition of benchmark administrators located in a third country serves as a temporary means of access to the Union market pending the adoption of an equivalence decision by the Commission. However, given the very limited number of third-country benchmarks covered by equivalence decisions, such recognition should become a permanent means of access to the Union market for such benchmark administrators.	(16) Under Article 32 of Regulation (EU) 2016/1011, recognition of benchmark administrators located in a third country serves as a temporary means of access to the Union market pending the adoption of an equivalence decision by the Commission. However, given the very limited number of third-country benchmarks covered by equivalence decisions, such recognition should become a permanent means of access to the Union market for such benchmark administrators.	
27	(17) Benchmarks covered by an equivalence decision are considered	(17) Benchmarks covered by an equivalence decision are considered	(17) Benchmarks covered by an equivalence decision are considered	

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	to be equivalently regulated and supervised to Union benchmarks. The obligation to seek endorsement or recognition should therefore not apply to administrators of significant benchmarks located in a third country that benefit from an equivalence decision.	to be equivalently regulated and supervised to Union benchmarks. The obligation to seek endorsement or recognition should therefore not apply to administrators of significant benchmarks located in a third country that benefit from an equivalence decision.	to be equivalently regulated and supervised to Union benchmarks. The obligation to seek endorsement or recognition should therefore not apply to administrators of significant benchmarks located in a third country that benefit from an equivalence decision.	
28	(18) In the interest of transparency and to ensure legal certainty, competent authorities that designate a benchmark as significant should specify the potential use restrictions that arise where the administrator of such a benchmark fails to be authorised or registered or fails to comply with the endorsement or recognition requirements, as applicable.	(18) In the interest of transparency and to ensure legal certainty, competent authorities that designate a benchmark as significant should specify the potential use restrictions that arise where the administrator of such a benchmark fails to be authorised or registered or fails to comply with the endorsement or recognition requirements, as applicable.	(18) In the interest of transparency and to ensure legal certainty, competent authorities that designate a benchmark as significant should specify the potential use restrictions that arise where the administrator of such a benchmark fails to be authorised or registered or fails to comply with the endorsement or recognition requirements, as applicable.	
29	(19) To mitigate the risks linked to the use of inadequately supervised significant benchmarks, where the administrator of a benchmark that becomes significant does not seek authorisation, registration, recognition or endorsement within the prescribed time limit, or where the authorisation, registration, recognition or endorsement for such benchmark administrator fails, or where an administrator is	(19) To mitigate the risks linked to the use of inadequately supervised significant benchmarks, where the administrator of a benchmark that becomes significant does not seek authorisation, registration, recognition or endorsement within the prescribed time limit, or where the authorisation, registration, recognition or endorsement for such benchmark administrator fails, or where an administrator is	(19) To mitigate the risks linked to the use of inadequately supervised significant benchmarks, where the administrator of a benchmark that becomes significant does not seek authorisation, registration, recognition or endorsement within the prescribed time limit, or where the authorisation, registration, recognition or endorsement for such benchmark administrator fails, or where an administrator is withdrawn	

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	withdrawn its authorisation, registration, endorsement or recognition, the competent authority or ESMA, as applicable, should issue a public notice stating that the significant benchmarks provided by that administrator are not suitable for use in the Union.	withdrawn its authorisation, registration, endorsement or recognition, the competent authority or ESMA, as applicable, should issue a public notice stating that the significant benchmarks provided by that administrator are not suitable for use in the Union.	its authorisation, registration, endorsement or recognition, the competent authority or ESMA, as applicable, should issue a public notice stating that the significant benchmarks provided by that administrator are not suitable for use in the Union.	
30	(20) Benchmark users rely on transparency regarding the regulatory status of benchmarks they use or intend to use. For that reason, ESMA should list in the register of administrators and benchmarks those benchmarks that are subject to the most detailed requirements laid down in Regulation (EU) 2016/1011, either because their use in the Union is above the set threshold for significant benchmarks, because they are designated as significant by a national supervisor or by ESMA, or because they are critical benchmarks. For the same reason, ESMA should also list in that register EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks provided by administrators that are authorised or registered. Finally, ESMA should also list in the register the benchmarks for which a competent authority or ESMA has issued a	(20) Benchmark users rely on transparency regarding the regulatory status of benchmarks they use or intend to use. For that reason, ESMA should list in the register of administrators and benchmarks those benchmarks that are subject to the most detailed requirements laid down in Regulation (EU) 2016/1011, either because their use in the Union is above the set threshold for significant benchmarks, because they are designated as significant by a national supervisor or by ESMA, or because they are critical benchmarks. For the same reason, ESMA should also list in that register EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks provided by administrators that are authorised or registered. Finally, ESMA should also list in the register the benchmarks for which a competent authority or ESMA has issued a	(20) Benchmark users rely on transparency regarding the regulatory status of benchmarks they use or intend to use. For that reason, ESMA should list in the register of administrators and benchmarks those benchmarks that are subject to the most detailed requirements laid down in Regulation (EU) 2016/1011, either because their use in the Union is above the set threshold for significant benchmarks, because they are designated as significant by a national supervisor or by ESMA, or because they are critical benchmarks. For the same reason, ESMA should also list in that register EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks provided by administrators that are authorised or registered. Finally, ESMA should also list in the register the benchmarks for which a competent authority or ESMA has issued a	

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	public notice prohibiting the further use of that benchmark. To further reduce the burden on users, all such information should also be made readily available on the European Single Access Point (ESAP).	public notice prohibiting the further use of that benchmark. To further reduce the burden on users, all such information should also be made readily available on the European Single Access Point (ESAP).	public notice prohibiting the further use of that benchmark. To further reduce the burden on users, all such information should also be made readily available on the European Single Access Point (ESAP).	
30a		***(20a) Two categories of ESG-related benchmarks are subject to compliance with minimum standards set out by Union law, namely EU Climate Transition Benchmarks (EUCTB) and EU Paris-aligned Benchmarks (EU-PAB). Regulation (EU) 2019/2089 has introduced rules as regards the transparency of benchmarks claiming, in their legal or marketing documentation, 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 users not to use benchmarks making ESG-related claims where such benchmarks do not provided users 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***	***(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) criteria 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 those users 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 into account in their design, regardless of whether such benchmark is administered in the EU or in a third-country.***	We urge reconsideration of the proposal suggested by both the Council and Parliament to prohibit the use of benchmarks that claim to incorporate an ESG element when their administrator has not made the required disclosures. Verifying this information for each underlying benchmark used for their products is a very difficult task for users. They also do not have access to the full data set of contributors providing input data to a benchmark. We doubt that the overarching objective of reducing the overall administrative burden will be achieved.

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		factors into account in their design, regardless of whether such benchmarks are administered in the Union or in a third-country. However, other categories of benchmarks making ESG-related claims, not considered EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, could contribute, or alternatively pose risks, to the promotion of key Union policies on sustainable finance and the achievement of related objectives or the implementation of the European Green Deal. Therefore, it is appropriate that by 31 December 2028 the Commission presents a report, on the basis of input from ESMA, assessing the availability of ESG benchmarks in European and global markets and their market up-take, analysing whether they would be considered significant benchmarks, and studying the costs and effects on market availability and the evolving nature of the sustainable indicators and the methods used to measure them. Furthermore, it should assess the need to regulate benchmarks making ESG-related claims, with the aim to maintain an adequate level of protection of users of those benchmarks as well as a high level of transparency, reduce the risk of greenwashing and ensure		

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		coherence with other EU legislation on sustainable disclosure requirements. That report should be accompanied by an impact assessment and, where appropriate, a legislative proposal.		
31	(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.	(21) To ensure a seamless transition to the ***application of the*** rules introduced under this Regulation ~~*and to avoid that administrators have to go through a procedure for registration or authorisation more than once,*~~***administrators previously supervised under Regulation (EU) 2019/2089 should keep existing registrations, authorisations, recognitions or endorsements for nine months after the entry into application of this amending Regulation. That period is intended to give*** competent authorities and ESMA ~~*should provide less burdensome application procedures for*~~***sufficient time to decide whether any of the previously supervised*** administrators ~~*that are already*~~***should be designated in accordance with this amending Regulation. If designated, administrators previously*** authorised, registered, endorsed or recognised ~~*and that apply for a new authorisation, registration,*~~	(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,*~~***administrators previously supervised under this regulation should maintain 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 ~~*and ESMA*~~***or ESMA, the time to decide whether any of the previously supervised administrators shall be designated in accordance with the amending regulation. This time period*** should ***also*** provide ~~*less burdensome application procedures for administrators that are already*~~***existing authorisation or registration holders a sufficient level of legal certainty on whether they will be designated in***	

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		~~*endorsement or recognition within two years from the date of application of this amending Regulation*~~***or administrators who voluntarily opt-in to this Regulation, should be allowed to retain their previous status without the need to reapply. Administrators of significant benchmarks should, in any case, be allowed to retain their status as authorised, registered, endorsed or recognised benchmark administrators***.	***accordance with the amending regulation. If designated, administrators previously*** authorised, registered, ***recognised or*** endorsed ***should be allowed to retain their previous status and not have to re-apply. If not designated, existing authorisation, registration, recognition or endorsement holders should have the legal certainty that the designation period has lapsed*** ~~*or recognised*~~ and that ~~*apply for a new*~~***their names can safely be removed from the ESMA register , while supervised entities will be able to continue to use these indices. Non-designation within this six months designation period also implies that a competent national authority is no longer obliged to maintain an existing*** authorisation, registration, ***recognition or*** endorsement***. Administrators of significant benchmarks should, in any case, be allowed to retain heir status as registered, authorised, recognised or endorsed benchmark administrators. In the same way, administrators of critical benchmarks, of EU Paris-aligned Benchmarks, of EU Climate Transition Benchmarks and of commodity benchmarks subject to Annex II that were authorised, registered, endorsed or recognised on*** ~~*or recognition within two years*~~	

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			~~*from*~~ the date of application of this amending Regulation ***should not be obliged to re-apply for authorisation, registration, recognition, or endorsement***.	
32	(22) In order to give competent authorities and ESMA the necessary time to gather information on potential significant benchmarks and to adapt existing infrastructure to the new framework proposed under this amending Regulation, the date of application of this Regulation should be deferred.	(22) In order to give competent authorities and ESMA the necessary time to gather information on potential significant benchmarks and to adapt existing infrastructure to the new framework proposed under this amending Regulation, the date of application of this Regulation should be deferred.	(22) In order to give competent authorities and ESMA the necessary time to gather information on potential significant benchmarks and to adapt existing infrastructure to the new framework proposed under this amending Regulation, the date of application of this Regulation should be deferred.	
33	(23) Regulation (EU) 2016/1011 should therefore be amended accordingly,	(23) Regulation (EU) 2016/1011 should therefore be amended accordingly,	(23) Regulation (EU) 2016/1011 should therefore be amended accordingly,	
34	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
35	Article 1 Amendments to Regulation (EU) 2016/1011	Article 1 Amendments to Regulation (EU) 2016/1011	Article 1 Amendments to Regulation (EU) 2016/1011	
36				

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	Regulation (EU) 2016/1011 is amended as follows:	Regulation (EU) 2016/1011 is amended as follows:	Regulation (EU) 2016/1011 is amended as follows:	
37	(1) Article 2 is amended as follows:	(1) Article 2 is amended as follows:	(1) Article 2 is amended as follows:	
38	(a) the following paragraph 1a is inserted:	(a) the following paragraph ~~*1a*~~ is inserted:	(a) the following paragraph 1a is inserted:	
39	‘ 1a. Titles II, III, IV and VI .apply only in respect of critical benchmarks, significant benchmarks, EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.; ’	‘ 1a. Titles II, III, ***with the exception of Articles 23a to 23c,*** IV and VI .apply only in respect of critical benchmarks, significant benchmarks, EU Climate Transition, Benchmarks and EU Paris-aligned Benchmarks. ***Article 10 in Title II and Titles III, IV and VI apply to commodity benchmarks subject to Annex II***; ’	‘ 1a. Titles II, III, ***with the exception of Articles 23a-23c,*** IV and VI ~~.~~apply only in respect of critical benchmarks, significant benchmarks, ***commodity benchmarks subject to Annex II,*** EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.***’***; ’	
40	(b) in paragraph 2, points (g) and (i) are deleted;	(b) in paragraph 2, ~~*points (g) and (i) are*~~***point (g) (i) is*** deleted;	(b) in paragraph 2, ~~*points (g) and (i) are*~~***point (i) is*** deleted~~;~~	We support the EP’s removal of the first condition Art. 2(g)(i) concerning the request for admission to trading, or the actual trading, in one trading venue. However, we believe that the scope of the exemption for small

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				commodities falls short of the general policy objective to rationalise the BMR application, and suggest considering the following additional changes: (1) Clarifying that the extension should also apply to small commodity benchmarks that are not contributor-based, whose existence seems neglected in the current BMR text. These benchmarks are based on data publicly available, and hence less prone to manipulation. (2) Increasing the total notional value threshold from EUR 100 million to EUR 500 million to account for the price volatility to which commodity markets are subject, which makes the notional value a non-common benchmark for market participants (who typically look at 'lots' instead).
41	(2) in Article 3, paragraph 1 is amended as follows:	(2) in Article 3, paragraph 1 is amended as follows:	(2) in Article 3, paragraph 1 is amended as follows:	

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41a		***(-a) in point (17), point (m) is replaced by the following:***	***(-a) in point (17), sub-point (m) is replaced by the following:***	
41b		***'(m) an administrator authorised or registered pursuant to Article 34';***	***'(m) an administrator authorised or registered pursuant to Article 34'***	
42	(a) point (22a) is deleted;	(a) point (22a) is deleted;	(a) point (22a) is deleted;	
43	(b) point (27) is deleted;	(b) point (27) is deleted;	(b) point (27) is deleted;	
44	(3) Article 5 is amended as follows:	(3) Article 5 is amended as follows:	(3) Article 5 is amended as follows:	
45	(a) in paragraph 5, second subparagraph, the last sentence is deleted ;	(a) in paragraph 5, second subparagraph, the last sentence is deleted ;	(a) in paragraph 5, second subparagraph, the last sentence is deleted ;	
46	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	
47	(4) Article 11 is amended as follows:	(4) Article 11 is amended as follows:	(4) Article 11 is amended as follows:	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
48	(a) in paragraph 5, first subparagraph, the last sentence is deleted;	(a) in paragraph 5, first subparagraph, the last sentence is deleted;	(a) in paragraph 5, first subparagraph, the last sentence is deleted;	
49	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	
50	(5) Article 13 is amended as follows:	(5) Article 13 is amended as follows:	(5) Article 13 is amended as follows~~:~~	
51	(a) in paragraph 3, first subparagraph, the last sentence is deleted;	(a) in paragraph 3, first subparagraph, the last sentence is deleted;	(a) in paragraph 3, first subparagraph, the last sentence is deleted~~;~~	
52	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted;	(b) paragraph 4 is deleted~~;~~	
53	(6) Article 16 is amended as follows:	(6) Article 16 is amended as follows:	(6) Article 16 is amended as follows:	
54	(a) in paragraph 5, second subparagraph, the last sentence is deleted;	(a) in paragraph 5, second subparagraph, the last sentence is deleted;	(a) in paragraph 5, second subparagraph, the last sentence is deleted~~;~~	
55	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	(b) paragraph 6 is deleted;	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
56	(7) in Title III, the title of Chapter 2 is replaced by the following:	(7) in Title III, the title of Chapter 2 is replaced by the following:	(7) in Title III, the title of Chapter 2 is replaced by the following:	
57	‘ Interest rate benchmarks; ’	‘ ‘Interest rate benchmarks’;	‘ ‘Interest rate benchmarks’;	
57a		***(7a) in Article 18 (1), the second subparagraph is replaced by the following:***	***(7a) Article 18 is amended as follows: the second subparagraph is replaced by the following:***	
57b		***‘Article 25 shall not apply to the provision of, and contribution to, interest rate benchmarks.’;***	***‘Article 25 shall not apply to the provision of, and contribution to, interest rate benchmarks.***	
58	(8) Article 18a is deleted;	(8) Article 18a is deleted;	(8) Article 18a is deleted;	
58a		***(8a) in Article 19(1), the second subparagraph is replaced by the following:***	***(8a) Article 19 is amended as follows: the second subparagraph is replaced by the following:***	
58b				

	Commission Proposal	EP Mandate	Council Mandate	MS comments
		'Article 25 shall not apply to the provision of, and contribution to, commodity benchmarks.' ;	***'Article 25 shall not apply to the provision of, and contribution to, commodity benchmarks.'***	
59	(9) in Article 19a, the following paragraph 4 is added:	(9) in Article 19a, the following ~~*paragraph 4 is*~~***paragraphs are*** added:	(9) in Article 19a, the following paragraph 4 is added:	
60	‘ 4. Administrators that are not authorised or registered pursuant to Article 34 shall not :	‘ 4. Administrators that are not ~~*authorised or registered pursuant to*~~ ***included in the ESMA register referred to in*** Article ~~34~~***36*** shall not :	‘ 4. Administrators that are not ~~*authorised or registered pursuant to*~~ ***included in the register referred to in*** Article ~~34~~***36*** shall not :	
61	(a) provide EU Climate Transition Benchmarks or Paris-aligned Benchmarks;	(a) provide ***or endorse*** EU Climate Transition Benchmarks or ***EU*** Paris-aligned Benchmarks;	(a) provide EU Climate Transition Benchmarks or ***EU*** Paris-aligned Benchmarks;	
62	(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 comply with the requirements applicable to the provision of EU Climate Transition	(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 comply with the requirements applicable to the provision of EU Climate Transition	(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 comply with the requirements applicable to the provision of EU Climate Transition	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	Benchmarks or EU Paris-aligned Benchmarks.; ,	Benchmarks or EU Paris-aligned Benchmarks.~~;~~	Benchmarks or EU Paris-aligned Benchmarks.**'**; ,	
62a		***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.;*** ,		We do not support the EP's requirements regarding the inclusion of 'EU CTB' and 'EU PAB' in the names of ESG benchmarks. Their inclusion in this context would unnecessarily burden administrators with administrative tasks without a clear regulatory purpose. These indices are already adequately labelled, with administrators offering benchmarks including the name Paris-Aligned (PAB) and Climate Transition (CTB) Benchmark, which is already well recognised in the industry. The addition of 'EU' could be up to the administrator.
63	(10) Article 19d is deleted;	(10) Article 19d is ~~*deleted;*~~***replaced by the following:***	(10) Article 19d is deleted;	
63a		***'Article 19d***		
63b		***Endeavour to provide EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks***		

	Commission Proposal	EP Mandate	Council Mandate	MS comments
63c		***Administrators which are located in the Union and 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 and EU Paris-aligned Benchmarks.';***		
64	(11) Article 24 is replaced by the following:	(11) Article 24 is replaced by the following:	(11) Article 24 is replaced by the following:	
65	‘ Article 24	‘ Article 24	‘ Article 24	
66	Significant benchmarks	Significant benchmarks	Significant benchmarks	
67	1. A benchmark which is not a critical benchmark shall be significant where either of the following conditions is met:	1. A benchmark which is not a critical benchmark shall be significant where either of the following conditions is met:	1. A benchmark which is not a critical benchmark shall be significant where either of the following conditions is met:	
68	(a) the benchmark is used directly or indirectly within a combination of benchmarks within the Union as	(a) the benchmark is used directly or indirectly within a combination of benchmarks within the Union as	(a) the benchmark is used directly or indirectly within a combination of benchmarks within the Union as	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	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;	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*~~***the characteristics*** of the benchmark, ~~*where applicable, over a period of six months;*~~***including:***	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;	
68a		***(i) the range of maturities or tenors of the benchmark, where applicable, over a period of six months;***		
68b		***(ii) all the currencies or other units of measurement of the benchmark, where applicable, over a period of six months; and***		
68c		***(iii) all the return calculation methodologies, where applicable, over a period of six months;***		
69	(b) the benchmark has been designated as significant in accordance with the procedure laid	(b) the benchmark has been designated as significant in accordance with the procedure laid	(b) the benchmark has been designated as significant in accordance with the procedure laid	We suggest deleting the designation based regime or, as a potential compromise, at least adding a line 69a with the following wording “

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	down in paragraphs 3, 4 and 5 or the procedure laid down in paragraph 6.	down in paragraphs 3, 4 and 5 or the procedure laid down in paragraph 6.	down in paragraphs 3, 4 and 5 or the procedure laid down in paragraph 6.	**(c) The designation under (b) shall not be applied to benchmarks that are regulated-data benchmarks."** The designation regime introduces unnecessary complexity and uncertainty compared to a scope based on clear quantitative thresholds. This runs counter to the goal of the BMR review to streamline and reduce current regulatory and compliance burdens. The criteria of 'substitutability' and 'significant and adverse impacts' are open to interpretation. Similar benchmarks from different administrators could end up subject to different conditions across the EU. Benchmarks with higher visibility for a local economy are more likely to be designated, while comparable benchmarks from other countries may not be. If the designation-based regime is retained, we suggest exempting 'regulated-data benchmarks' from it. These benchmarks, defined in Article 3(24), are less prone to market manipulation, given that their inputs come from already heavily regulated entities. Besides, the designation-linked risk of divergent treatment is particularly acute for them due to their ease of replicability. They are particularly

	Commission Proposal	EP Mandate	Council Mandate	MS comments
				susceptible to unfair competition, being offered by administrators both within and outside Europe.
70	2. 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 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.	2. An administrator shall immediately notify ~~*the competent authority of the*~~***ESMA and, if located in an EU*** Member State ~~*where it is located or, if located in a third country, ESMA*~~***the competent authority of that Member State***, where one or 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,*~~***ESMA*** shall publish a statement on its website stating that that benchmark is significant ***either in one Member State or within the Union***.	2. 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 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.	NCAs should be the only competent authority for EU benchmarks, whereas ESMA should be the one for non-EU benchmarks. This should also apply to CTB/PAB labels. This would introduce further simplicity in the authorisation and supervision frameworks for EU and non-EU administrators. See comments in lines 148h and 148j.
71	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.	An administrator shall, upon request, provide ***ESMA and*** 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.	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.	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
72	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 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.	Where a competent authority or~~, in the case of a third-country administrator, ESMA,~~ ***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 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.	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 stating that fact. Such a notice shall trigger the same obligations for the benchmark administrator as a notification as referred to in ~~paragraph 2~~***the first subparagraph of this paragraph***. 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.	
73	3. A competent authority may, having consulted ESMA in accordance with paragraph 4 and taking into account its advice, designate a benchmark provided by an administrator located in the Union that does not meet the condition laid down in paragraph 1, point (a), as significant where that	3. A competent authority may, having consulted ESMA in accordance with paragraph 4 and taking into account its advice, designate a benchmark provided by an administrator located in the Union that does not meet the condition laid down in paragraph 1, point (a), as significant where that	3. A competent authority may, having consulted ESMA in accordance with paragraph 4 and taking into account its advice, designate a benchmark provided by an administrator located in the Union that does not meet the condition laid down in paragraph 1, point (a), as significant where that	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	benchmark fulfils all of the following conditions:	benchmark fulfils all of the following conditions:	benchmark fulfils all of the following conditions~~:~~	
74	(a) the benchmark has no, or very few, appropriate market-led substitutes;	(a) the benchmark has no, or very few, appropriate market-led substitutes;	(a) the benchmark has no, or very few, appropriate market-led substitutes;	
75	(b) in the event that the benchmark ceases to be provided, or is provided on the basis of input data no longer fully representative of the underlying market or economic reality or on the basis of unreliable input data, there would be significant and adverse impacts on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in its Member State;	(b) in the event that the benchmark ceases to be provided, or is provided on the basis of input data no longer fully representative of the underlying market or economic reality or on the basis of unreliable input data, there would be significant and adverse impacts on ~~*market integrity,*~~ financial stability, consumers, the real economy, or the financing of households and businesses in its Member State ***or in the Union***;	(b) in the event that the benchmark ceases to be provided, or is provided on the basis of input data no longer fully representative of the underlying market or economic reality or on the basis of unreliable input data, there would be significant and adverse impacts on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in ~~*its*~~***that competent authority's*** Member State;	Please see comment above.
76	(c) the benchmark has not been designated by a competent authority of another Member State.	(c) the benchmark has not been designated by a competent authority of another Member State ***or ESMA***.	(c) the benchmark has not been designated by a competent authority of another Member State.	We suggest adding a line 76a with the following wording " **(d) it has a total average value of at least EUR 20 billion."** At the very least, a minimum quantitative threshold should be considered as part of the designation criteria. The provision, considered during ECON negotiations, would

	Commission Proposal	EP Mandate	Council Mandate	MS comments
				offer some clarity for benchmark administrators, particularly concerning smaller benchmarks with no systematic risk. Besides, it would fully align with the overarching goal of the BMR review to streamline the regulation's scope.
77	Where a competent authority concludes that a benchmark fulfils the criteria set out in the first subparagraph, the competent authority shall prepare a draft decision to designate the benchmark as significant and notify that draft decision to the administrator concerned and to the competent authority of the administrator's home Member State where relevant. The competent authority concerned shall also consult ESMA on the draft decision.	Where a competent authority concludes that a benchmark fulfils the criteria set out in the first subparagraph, the competent authority shall prepare a draft decision to designate the benchmark as significant and notify that draft decision to the administrator concerned and to the competent authority of the administrator's home Member State where relevant. The competent authority concerned shall also consult ESMA on the draft decision.	Where a competent authority concludes that a benchmark fulfils the criteria set out in the first subparagraph, the competent authority shall prepare a draft decision to designate the benchmark as significant and notify that draft decision to the administrator concerned and to the competent authority of the administrator's home Member State where relevant. The competent authority concerned shall also consult ESMA on the draft decision.	
78	The administrators concerned and the competent authority of the administrator's home Member State shall have 15 working days from the date of notification of the draft decision of the designating competent authority concerned to provide observations and comments in writing. The designating	The administrators concerned and the competent authority of the administrator's home Member State shall have 15 working days from the date of notification of the draft decision of the designating competent authority concerned to provide observations and comments in writing. The designating	The administrators concerned and the competent authority of the administrator's home Member State shall have 15 working days from the date of notification of the draft decision of the designating competent authority concerned to provide observations and comments in writing. The designating	

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	competent authority concerned shall inform ESMA of the observations and comments received and shall duly consider those observations and comments before adopting a final decision.	competent authority concerned shall inform ESMA of the observations and comments received and shall duly consider those observations and comments before adopting a final decision.	competent authority concerned shall inform ESMA of the observations and comments received and shall duly consider those observations and comments before adopting a final decision.	
79	The designating competent authority shall notify ESMA of its decision, and publish the decision, including the reasons for which it was made and the consequences of this designation, on its website without undue delay.’;	The designating competent authority shall notify ESMA of its decision, and publish the decision, including the reasons for which it was made and the consequences of this designation, on its website without undue delay.’;	The designating competent authority shall notify ESMA of its decision, and publish the decision, including the reasons for which it was made and the consequences of this designation, on its website without undue delay. ***Where a competent authority designates a benchmark contrary to an opinion adopted by ESMA under paragraph 4, it shall immediately publish on its website a notice fully explaining its reasons for doing so***’;	
80	4. When consulted by a competent authority on the intended designation of a benchmark as significant in accordance with paragraph 3, first subparagraph, ESMA shall, within 3 months, issue an advice that takes into account the following factors, in light of the specific characteristics of the benchmark concerned:	4. When consulted by a competent authority on the intended designation of a benchmark as significant in accordance with paragraph 3, first subparagraph, ESMA shall, within 3 months, issue an advice that takes into account the following factors, in light of the specific characteristics of the benchmark concerned:	4. When consulted by a competent authority on the intended designation of a benchmark as significant in accordance with paragraph 3, first subparagraph, ESMA shall, within 3 months, issue an advice that takes into account the following factors, in light of the specific characteristics of the benchmark concerned:	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
81	(a) whether the consulting competent authority has sufficiently substantiated its assessment that the conditions referred to in paragraph 3, first subparagraph are met;	(a) whether the consulting competent authority has sufficiently substantiated its assessment that the conditions referred to in paragraph 3, first subparagraph are met;	(a) whether the consulting competent authority has sufficiently substantiated its assessment that the conditions referred to in paragraph 3, first subparagraph are met;	
82	(b) whether, in the event that the benchmark ceases to be provided, or is provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in in Member States other than the Member State of the consulting competent authority.	(b) whether, in the event that the benchmark ceases to be provided, or is provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on ~~*market integrity,*~~ financial stability, consumers, the real economy, or the financing of households and businesses in ~~*in*~~***the Union or*** Member States other than the Member State of the consulting competent authority.	(b) whether, in the event that the benchmark ceases to be provided, or is provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on market integrity, financial stability, consumers, the real economy, or the financing of households and businesses in ~~*in*~~ Member States other than the Member State of the consulting competent authority.	
83	For the purposes of point (b), ESMA shall take due account, where relevant, of the information provided by the consulting authority pursuant to the third subparagraph of paragraph 3.	For the purposes of point (b), ESMA shall take due account, where relevant, of the information provided by the consulting authority pursuant to the third subparagraph of paragraph 3.	For the purposes of point (b), ESMA shall take due account, where relevant, of the information provided by the consulting authority pursuant to the third subparagraph of paragraph 3.	
84				See comments below.

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	5. 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.	5. Where ESMA finds that a benchmark meets the conditions under paragraph 3, ~~*1st paragraph*~~***first subparagraph***, points (a) ~~*to (c), in*~~ ***and (b), in the Union or 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.*~~	5. Where ESMA finds that a benchmark meets the conditions under paragraph 3, ~~*1st paragraph*~~***first subparagraph***, points (a) to (c), in more than one Member State, it shall inform the competent authorities of the Member States concerned thereof. ~~*They*~~***The competent authorities of the Member States concerned*** shall agree which among them designates the benchmark concerned as significant benchmark.	
85	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.	~~*Where*~~***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 ~~*disagree on the matter referred to in the first subparagraph, they*~~***where point (b) applies. The administrators concerned and the relevant competent authorities*** shall ~~*refer the matter to ESMA,*~~***have 15 working days from the date of notification of the draft decision of ESMA to provide observations and comments in writing.*** ESMA shall ~~*settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010*~~***consider those***	Where competent authorities disagree on the matter referred to in the first subparagraph, they shall refer the matter to ESMA, ***and*** ESMA shall settle that disagreement in accordance with Article 19 of Regulation (EU) No 1095/2010.	We oppose the EP's suggestions to appoint ESMA as the competent authority for supervision, authorisation, and designation of both 'EU benchmarks significant within the Union'. See comments in line 148h.

	Commission Proposal	EP Mandate	Council Mandate	MS comments
		observations and comments before adopting and publishing a final decision.		
86	6. 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:	6. 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:	6. 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:	For non-EU benchmark administrators, we see the benefit of having ESMA as the centralised competent authority for both their significant and CTB/PAB-labelled benchmarks as well as the possibility for ESMA to designate them in their own initiative. This would introduce further simplicity in the authorisation and supervision frameworks for non-EU administrators, regardless of their access method (i.e. including endorsement).
87	(a) the benchmark has no, or very few, appropriate market-led substitutes;	(a) the benchmark has no, or very few, appropriate market-led substitutes;	(a) the benchmark has no, or very few, appropriate market-led substitutes;	
88	(b) in the event that the benchmark would cease to be provided, or would be provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on market integrity, financial stability,	(b) in the event that the benchmark would cease to be provided, or would be provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on ~~*market integrity,*~~ financial stability,	(b) in the event that the benchmark would cease to be provided, or would be provided on the basis of input data that are no longer fully representative of the underlying market or economic reality or that are unreliable, there would be significant and adverse impacts on market integrity, financial stability,	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	consumers, the real economy, or the financing of households and businesses in one or more Member States.	consumers, the real economy, or the financing of households and businesses in ***the Union or in*** one or more Member States.	consumers, the real economy, or the financing of households and businesses in one or more Member States.	
89	ESMA shall, prior to the designation decision and as soon as possible, inform the administrator of the benchmark of its intention, and invite that administrator to provide ESMA within 15 working days with a reasoned statement containing any relevant information for the purposes of the assessment related to the designation of the benchmark as significant.	ESMA shall, prior to the designation decision and as soon as possible, inform the administrator of the benchmark of its intention, and invite that administrator to provide ESMA within 15 working days with a reasoned statement containing any relevant information for the purposes of the assessment related to the designation of the benchmark as significant.	ESMA shall, prior to the designation decision and as soon as possible, inform the administrator of the benchmark of its intention, and invite that administrator to provide ESMA within 15 working days with a reasoned statement containing any relevant information for the purposes of the assessment related to the designation of the benchmark as significant.	
90	Where applicable, ESMA shall invite, as soon as possible, the competent authority of the jurisdiction where the administrator is located to provide any relevant information for the purposes of the assessment related to the designation of the benchmark.	Where applicable, ESMA shall invite, as soon as possible, the competent authority of the jurisdiction where the administrator is located to provide any relevant information for the purposes of the assessment related to the designation of the benchmark.	Where applicable, ESMA shall invite, as soon as possible, the competent authority of the jurisdiction where the administrator is located to provide any relevant information for the purposes of the assessment related to the designation of the benchmark.	
91	ESMA shall motivate any designation decision, taking into account whether there is sufficient evidence that the conditions referred to in the first subparagraph of this	ESMA shall motivate any designation decision, taking into account whether there is sufficient evidence that the conditions referred to in the first subparagraph of this	ESMA shall motivate any designation decision, taking into account whether there is sufficient evidence that the conditions referred to in the first subparagraph of this	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	paragraph are met, in light of the specific characteristics of the benchmark concerned.	paragraph are met, in light of the specific characteristics of the benchmark concerned.	paragraph are met, in light of the specific characteristics of the benchmark concerned.	
92	ESMA shall publish its reasoned decision on its website and shall notify the requesting competent authority or authorities without undue delay.	ESMA shall publish its reasoned decision on its website and shall notify the requesting competent authority or authorities without undue delay.	ESMA shall publish its reasoned decision on its website and shall notify the requesting competent authority or authorities without undue delay.	
92a		***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 or EU Paris-aligned Benchmarks may voluntarily apply to access to the register provided for in Article 36 either by means of authorisation, registration, recognition or endorsement.***		
92b		***Administrators who voluntarily opt-in to this Regulation shall do so in writing with their current supervisory authority, per benchmark and each of those benchmarks shall be deemed significant under this Regulation.***		

	Commission Proposal	EP Mandate	Council Mandate	MS comments
92c		***The voluntary waiver of this regime shall not prevent the corresponding administrative responsibilities from being imposed in the event of non-compliance or infringement of the Regulation (EU) 2016/1011 during their voluntary stay in the register provided for in Article 36.***		
93	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. ,	7. ~~*The Commission*~~***ESMA*** shall ~~*be empowered to adopt delegated acts in accordance with Article 49 to further*~~ ***develop draft regulatory technical standards to*** 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.*~~***:***	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~~.~~ ,	
93a		***(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;***		We support EP's proposal to task ESMA with drafting RTS specifying the calculation method for EUR 50 billion threshold. The lack of clarity surrounding the calculation of this threshold requires resolution to allow administrators to know which benchmarks will be in scope. A new calculation methodology could also be disruptive for benchmark

	Commission Proposal	EP Mandate	Council Mandate	MS comments
				administrators and the market. An approach encompassing ESMA draft RTS would leverage ESMA's expertise and ensure consultation with market participants.
93b		***(ii) the criteria to assess when a benchmark exceeds the threshold referred to in paragraph 1, point (a), of Article 24 in one Member State or across the Union;***		
93c		***(iii) the information that competent authorities shall provide when consulting ESMA as required pursuant to Article 24, paragraph 3;***		
93d		***(iv) the criteria referred to in paragraph 4, point (b), of Article 24, 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;***		

	Commission Proposal	EP Mandate	Council Mandate	MS comments
93e		***ESMA shall submit those draft regulatory technical standards to the Commission by ... [12 months from the entry into force of this Regulation].***		
93f		***Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.***		
93g		***7a. By ... [2 years after date of the date of entry into force of this amending Regulation] the Commission shall, in close cooperation with ESMA, present a report to the European Parliament and the Council on the adequacy of the threshold referred to in point (a) of paragraph 1 of this Article in the light of market, price and regulatory developments. That report shall be accompanied, where appropriate, by a legislative proposal. Such review shall take place at least every three years.***		

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93h		***7b. Where ESMA considers it approriate that the threshold referred to in paragraph 1, point (a)be reviewed earlier in the light of market, price and regulatory developments, it shall submit a request to the Commission to review the threshold. Upon receipt of that request, the Commission shall review the need to reassess the threshold and act in accordance with paragraph 7a.;*** ,		
94	(12) the following Article 24a is inserted:	(12) the following article ~~*24a*~~ is inserted:	(12) the following Article 24a is inserted:	
95	‘ Article 24a	‘ Article 24a	‘ ‘Article 24a	
96	Requirements for administrators of significant benchmarks	Requirements for administrators of significant benchmarks	Requirements for administrators of significant benchmarks	
97	(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) 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) 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	We oppose the EP’s proposed amendments. See comments in line 148h.

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	(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:	(1), point (a), of that Article, shall seek authorisation or registration with the competent authority of the Member State where it is ~~*located*~~***significant in that Member State or with ESMA where the benchmark is significant within the Union***. 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*~~***apply with ESMA for*** either of the following:	(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:	
98	(a) recognition with ESMA pursuant to the procedure set out in Article 32;	(a) ~~*recognition with ESMA*~~ ***recognition*** pursuant to the procedure set out in Article 32;	(a) recognition with ESMA pursuant to the procedure set out in Article 32;	
99	(b) endorsement pursuant to the procedure set out in Article 33.	(b) endorsement pursuant to the procedure set out in Article 33.	(b) endorsement pursuant to the procedure set out in Article 33.	
100	(2) Within 60 working days following a designation referred to in Article 24(3), the administrator of the benchmark concerned, unless that administrator is already authorised or registered, shall seek	(2) Within 60 working days following a designation referred to in Article 24(3), the administrator of the benchmark concerned, unless that administrator is already authorised or registered ***by a***	(2) Within 60 working days following a designation referred to in Article 24(3), the administrator of the benchmark concerned, unless that administrator is already authorised or registered, shall seek	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	authorisation or registration with the designating competent authority in accordance with Article 34.	***national competent authority***, shall seek authorisation or registration with the designating competent authority in accordance with Article 34.	authorisation or registration with the ~~*designating*~~ competent authority ***of the Member State where it is located*** in accordance with Article 34.	
100a		***2a. Within 60 working days of a designation as referred to in Article 24(5), the administrator of the benchmark concerned shall seek authorisation or registration with ESMA in accordance with Article 34, unless that administrator is already authorised or registered. If that administrator is already authorised or registered in a Member State, such authorisation or registration shall be transferred to ESMA.***		
101	(3) Withing 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) Withing 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*~~ ***shall apply to ESMA for*** either of the following:	(3) ~~*Withing*~~***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:	We oppose EP proposal to eliminate 'equivalence' as an access path, which would be a disproportionate and ultimately burdensome approach. Its elimination would also be inconsistent with the intended policy objectives of the review.
102				

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	(a) recognition with ESMA pursuant to the procedure set out in Article 32;	(a) recognition ~~*with ESMA*~~ pursuant to the procedure set out in Article 32;	(a) recognition with ESMA pursuant to the procedure set out in Article 32;	
103	(b) endorsement pursuant to the procedure set out in Article 33.	(b) endorsement pursuant to the procedure set out in Article 33.	(b) endorsement pursuant to the procedure set out in Article 33.	
103a		***Third country benchmarks administrators shall select an endorsing administrator in the Union.***		
104	(4) ESMA or competent authorities shall make use of the supervisory and sanction powers they are entrusted with under this Regulation to ensure that the relevant administrators comply with their obligations.	(4) ESMA or competent authorities shall make use of the supervisory and sanction powers they are entrusted with under this Regulation to ensure that the relevant administrators comply with their obligations.	(4) ESMA or competent authorities shall make use of the supervisory and sanction powers they are entrusted with under this Regulation to ensure that the relevant administrators comply with their obligations.	
105	(5) The competent authority or ESMA shall issue a public notice stating that a significant benchmark provided by an administrator does not comply with this Regulation and that users should refrain from using that benchmark where any of the following conditions is met:	(5) The competent authority or ESMA shall issue a public notice stating that a significant benchmark provided by an administrator does not comply with this Regulation and that users ~~*should*~~***are to*** refrain from using that benchmark where any of the following conditions is met:	(5) The competent authority or ESMA shall issue a public notice stating that a significant benchmark provided by an administrator does not comply with this Regulation and that users should refrain from using that benchmark where any of the following conditions is met:	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
106	(a) within 60 working days following the notification referred to in Article 24(2) the designation referred to in Article 24(3) or the designation referred to in Article 24(6), the administrator concerned has not initiated procedures to comply with paragraph 2 of this Article;	(a) within 60 working days following the notification referred to in Article 24(2) the designation referred to in Article 24(3) or the designation referred to in Article 24(6), the administrator concerned has not initiated procedures to comply with paragraph 2 of this Article;	(a) within 60 working days following the notification referred to in Article 24(2) the designation referred to in Article 24(3) or the designation referred to in Article 24(6), the administrator concerned has not initiated procedures to comply with paragraph 2 of this Article;	
107	(b) the authorisation, registration, recognition or endorsement procedures have failed;	(b) the authorisation, registration, recognition or endorsement procedures have failed;	(b) the authorisation, registration, recognition or endorsement procedures have failed;	
108	(c) ESMA has withdrawn the registration of the administrator in accordance with Article 31;	(c) ESMA has withdrawn the registration of the administrator in accordance with Article 31;	(c) ESMA has withdrawn the registration of the administrator in accordance with Article 31~~;~~	
109	(d) ESMA has withdrawn or suspended the recognition of the administrator concerned in accordance with Article 34(6);	(d) ESMA has withdrawn or suspended the recognition of the administrator concerned in accordance with Article ~~*34(6)*~~***32(8)***;	(d) ESMA has withdrawn or suspended the recognition of the administrator concerned in accordance with Article ~~*34(6)*~~***32(8)***;	
110	(e) the endorsement of the administrator concerned has ceased;	(e) the endorsement of the administrator concerned has ceased;	(e) the endorsement of the administrator concerned has ceased ***in accordance with Article 33 (6)***;	

	Commission Proposal	EP Mandate	Council Mandate	MS comments
111	(f) the competent authority has withdrawn or suspended the authorisation or registration of the administrator concerned.	(f) the competent authority has withdrawn or suspended the authorisation or registration of the administrator concerned.	(f) the competent authority has withdrawn or suspended the authorisation or registration of the administrator concerned ***in accordance to Article 35***.	
112	Competent authorities shall notify ESMA of all issued public notices without undue delay. ESMA shall publish all issued public notices on its website. ESMA or the competent authority shall remove the public notice without undue delay as soon as the reason for which it was issued is no longer valid. ,	Competent authorities shall notify ESMA of all issued public notices without undue delay. ESMA shall publish all issued public notices on its website. ESMA or the competent authority shall remove the public notice without undue delay as soon as the reason for which it was issued is no longer valid.**;** ,	Competent authorities shall notify ESMA of all issued public notices without undue delay. ESMA shall publish all issued public notices on its website. ESMA or the competent authority shall remove the public notice without undue delay as soon as the reason for which it was issued is no longer valid.**'** ,	
113	(13) in Title III, Chapter 6 is deleted;	(13) in Title III, Chapter 6 is deleted;	(13) in Title III, Chapter 6 is deleted;	
113a		***(13a) Article 28, paragraph 2 is amended as follows:***		
113b		***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***		

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		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.;		
114	(14) Article 29 is amended as follows:	(14) Article 29 is amended as follows:	(14) Article 29 is amended as follows:	
115	(a) the title is replaced by the following:	(a) the title is replaced by the following:	(a) the title is replaced by the following:	
116	‘ Use of significant benchmarks, EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks;	‘ Use of ***critical benchmarks,*** significant benchmarks***, commodity benchmarks subject to Annex II***,	‘ ***‘***Use of ***critical benchmarks,*** significant benchmarks, ***commodity benchmarks subject to Annex II,***	

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	’	EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks; ’	EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks’; ’	
117	(b) paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:	(b) paragraph 1 is replaced by the following:	
118	‘ 1. 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.	‘ 1. 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 combination of such benchmarks in the Union where the administrator of those benchmarks is not included in the register referred to in Article 36.	‘ 1. 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 ***a critical benchmark, a commodity benchmark subject to Annex II, 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.	
119	Supervised entities shall regularly consult the European Single Access	Supervised entities shall regularly consult the European Single Access	Supervised entities shall regularly consult the European Single Access	

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	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.	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,*** significant benchmarks***, commodity benchmarks subject to Annex II***, EU Climate Transition Benchmarks or EU Paris-Aligned Benchmarks they intend to use.	Point (ESAP) as referred to in Article 28a***l***, or the ESMA register as referred to in Article 36, to verify the regulatory status of the administrators of ***critical benchmarks,*** significant benchmarks, ***commodity benchmarks subject to Annex II,*** EU Climate Transition Benchmarks or EU Paris-Aligned Benchmarks they intend to use.	
120	By way of derogation from the first subparagraph, ESMA or the competent authority, as appropriate, may allow the use of a benchmark subject to a public notice issued in accordance with Article 24a(5) for a period of 6 months following the publication of the public notice, renewable once, where necessary to avoid serious market disruption. ’	By way of derogation from the first subparagraph, ESMA or the competent authority, as appropriate, may allow the use of a benchmark subject to a public notice issued in accordance with Article 24a(5) for a period of 6 months following the publication of the public notice, renewable once, where necessary to avoid serious market disruption***, or for a period of 24 months, non-renewable, for the following:***	By way of derogation from the first subparagraph, ESMA or the competent authority, as appropriate, may allow the use of a benchmark subject to a public notice issued in accordance with Article 24a(5) for a period of 6 months following the publication of the public notice, renewable once, where necessary to avoid serious market disruption. ’	
120a		***(a) market making in support of client activity related to transactions executed the effective date of the prohibition;***		
120b				

	Commission Proposal	EP Mandate	Council Mandate	MS comments
		(b) transactions or other activities that reduce or hedge the supervised entity's or any client of the supervised entity's exposure to the prohibited benchmark;		
120c		***(c) novations of transactions;***		
120d		***(d) transactions executed for the purposes of participation in a central counterparty auction procedure in the case of a member default, including transactions to hedge the resulting exposure;***		
120e		***(e) interpolation or other use provided for in contractual fallback arrangements in connection with the prohibited benchmark.';*** ,		
121	(c) a new paragraph 1a is inserted:	(c) ~~*a new paragraph 1a is*~~***new paragraphs 1b, 1ba, 1bb and 1bc are*** inserted:	(c) a new paragraph ~~*1a*~~***1b*** is inserted:	
122	‘	‘	‘	

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	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.;	~~1a~~**1b**. A supervised entity that uses a benchmark in existing financial contracts or ***to measure the performance of investment funds 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*~~***providing*** clients ~~*of the absence of an appropriate alternative*~~***with a reasoned explanation for not being able to do so***.~~;~~	~~1a~~**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.~~;~~	
122a		***1ba. 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). All methodology disclosure requirements shall seek coherence with Article 10 of Regulation EU 2019/2088.*** ***This paragraph shall apply to both EU and non-EU benchmarks.***		We oppose the Parliament's suggestion that all methodology disclosure requirements should seek coherence with Art. 10 of the SFDR. Cross-references to SFDR would be legally unfeasible and may mistakenly subject benchmark administrators to the SFDR. In addition, this risk is compounded by the fact that Art. 10 SFDR on transparency on websites, mandates the publication of information referenced in several SFDR articles, including 8, 9 and 11. EP's proposal would significantly disrupt the

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				industry, leading to increased regulatory burdens and costly adaptations for benchmark administrators without a clear understanding of the ultimate regulatory goal.
122b			***(d) a new paragraph 1c is inserted:***	
122c			***'1c. A supervised entity may use a benchmark claiming, in its legal or marketing documentation, or denomination, to take ESG 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) of this Regulation. This paragraph shall apply to both EU and non-EU benchmarks.'*** ,	
122d		***(ca) Paragraph 2 is amended as follows:***		
122e		***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***		

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		products that reference a critical benchmark, a significant benchmark, a commodity benchmark subject to Annex II, an EU Climate Transition Benchmark, or an EU Paris-aligned Benchmark, the issuer, offeror, or person asking for admission to trade on a regulated market shall ensure that when a public notice on the benchmark used is included in the register referred to in Article 36 of this Regulation, within 9 months following the publication of the public notice, the prospectus also includes this information in a clear and prominent manner.		
122f		***(cb) a new paragraph 2a is inserted:***		
122g		***2a. Administrators of benchmarks used in the EU shall endeavour to request a globally agreed identifier code for each of the benchmarks they provide for use in the Union.';***		
123	(15) Article 32 is amended as follows:	(15) Article 32 is amended as follows:	(15) Article 32 is amended as follows:	

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124	(a) paragraph 1 is deleted;	(a) paragraph 1 is deleted;	(a) paragraph 1 is deleted;	
125	(b) paragraphs 2 and 3 are replaced by the following:	(b) paragraphs 2 and 3 are replaced by the following:	(b) paragraphs 2 and 3 are replaced by the following:	
126	‘ 2. An administrator located in a third country that intends to obtain recognition as referred to in Article 24a(1) and (3) shall comply with this Regulation, with the exception of Article 11(4) and Articles 16, 20, 21 and 23. The administrator located in a third country may fulfil that condition by applying the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, provided that such application is equivalent to compliance with this Regulation, with the exception of Article 11(4), and Articles 16, 20, 21 and 23.	‘ 2. An administrator located in a third country that intends to obtain recognition as referred to in Article 24a(1) and (3) shall comply with this Regulation, with the exception of Article 11(4) and Articles 16, 20, 21 and 23. The administrator located in a third country may fulfil that condition by applying the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, provided that such application is equivalent to compliance with this Regulation, with the exception of Article 11(4), and Articles 16, 20, 21 and 23.	‘ 2. An administrator ~~*located in a third country that intends to obtain recognition as referred to in Article 24a(1) and (3)*~~***of a significant benchmark, of an EU Paris-aligned Benchmark, of an EU Climate Transition Benchmark or of a commodity benchmark subject to Annex II located in a third country that intends to obtain recognition*** shall comply with this Regulation, with the exception of Article 11(4) and Articles 16, 20, 21 and 23. ~~*The*~~***An*** administrator located in a third country may fulfil that condition by applying the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, provided that such application is equivalent to compliance with this Regulation, with the exception of Article 11(4), and Articles 16, 20, 21 and 23.	
127				

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	When determining whether the condition referred to in the first subparagraph is fulfilled and assessing the compliance with the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, ESMA may take into account:	When determining whether the condition referred to in the first subparagraph is fulfilled and assessing the compliance with the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, ESMA may take into account:	When determining whether the condition referred to in the first subparagraph is fulfilled and assessing the compliance with the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, ESMA may take into account:	
128	(a) an assessment of the administrator located in a third country by an independent external auditor;	(a) an assessment of the administrator located in a third country by an independent external auditor;	(a) an assessment of the administrator located in a third country by an independent external auditor;	
129	(b) a certification provided by the competent authority of the third country where that administrator is located.	(b) a certification provided by the competent authority of the third country where that administrator is located.	(b) a certification provided by the competent authority of the third country where that administrator is located.	
130	Where, and to the extent that, a third country administrator is able to demonstrate that a benchmark it provides is a regulated-data benchmark or a commodity benchmark that is not based on submissions by contributors the majority of which are supervised entities, the administrator shall not be obliged to comply with the requirements which, pursuant to Article 17 and Article 19(1), are not	Where, and to the extent that, a third country administrator is able to demonstrate that a benchmark it provides is a regulated-data benchmark or a commodity benchmark that is not based on submissions by contributors the majority of which are supervised entities, the administrator shall not be obliged to comply with the requirements which, pursuant to Article 17 and Article 19(1), are not	Where, and to the extent that, a third country administrator is able to demonstrate that a benchmark it provides is a regulated-data benchmark or a commodity benchmark that is not based on submissions by contributors the majority of which are supervised entities, the administrator shall not be obliged to comply with the requirements which, pursuant to Article 17 and Article 19(1), are not	

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	applicable to the provision of regulated-data benchmarks and of commodity benchmarks.	applicable to the provision of regulated-data benchmarks and of commodity benchmarks.	applicable to the provision of regulated-data benchmarks and of commodity benchmarks.	
131	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.; ,	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*~~ ***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 point (a) of Article 42(1) 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.'***; ,	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.'; ,	

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132	(c) in paragraph 5, the first subparagraph is replaced by the following:	(c) in paragraph 5, the first subparagraph is replaced by the following:	(c) in paragraph 5, the first subparagraph is replaced by the following:	
133	‘ An administrator located in a third country intending to obtain recognition as referred to in paragraph 2 shall apply for recognition with ESMA. The applicant administrator shall provide all information necessary to satisfy ESMA that it has established, at the time of recognition, all the necessary arrangements to meet the requirements laid down in paragraph 2 with respect to its benchmark or benchmarks that have been designated in accordance with Article 24. Where applicable, the applicant administrator shall indicate the competent authority in the third country responsible for its supervision.	‘ An administrator located in a third country intending to obtain recognition as referred to in paragraph 2 shall apply for recognition with ESMA. The applicant administrator shall provide all information necessary to satisfy ESMA that it has established, at the time of recognition, all the necessary arrangements to meet the requirements laid down in paragraph 2 with respect to its benchmark or benchmarks that have been designated in accordance with Article 24. Where applicable, the applicant administrator shall indicate the competent authority in the third country responsible for its supervision.	‘ ‘An administrator located in a third country intending to obtain recognition as referred to in paragraph 2 shall apply for recognition with ESMA. The applicant administrator shall provide all information necessary to satisfy ESMA that it has established, at the time of recognition, all the necessary arrangements to meet the requirements laid down in paragraph 2 with respect to its benchmark or benchmarks that have been designated in accordance with Article 24. Where applicable, the applicant administrator shall indicate the competent authority in the third country responsible for its supervision.	
134	Within 15 working days of receipt of the application, ESMA shall assess whether the application is complete and shall notify the applicant accordingly. Where the application is incomplete, the	Within 15 working days of receipt of the application, ESMA shall assess whether the application is complete and shall notify the applicant accordingly. Where the application is incomplete, the	Within 15 working days of receipt of the application, ESMA shall assess whether the application is complete and shall notify the applicant accordingly. Where the application is incomplete, the	

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	applicant shall submit the additional information required by ESMA. The time limit referred to in this subparagraph shall apply from the date on which the applicant has provided such additional information.; ,	applicant shall submit the additional information required by ESMA. The time limit referred to in this subparagraph shall apply from the date on which the applicant has provided such additional information.***'***; ,	applicant shall submit the additional information required by ESMA. The time limit referred to in this subparagraph shall apply from the date on which the applicant has provided such additional information.***'***; ,	
134a		***(15a) in Article 33(1), the introductory wording is amended as follows:***		
134b		***1. An administrator located in the Union and authorised or registered in accordance with Article 34, with a clear and well-defined role under 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:***		
134c		***(15b) Article 33, paragraph 3 is amended as follows:***		

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134d		***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.***		
134e		***(15c) Article 33, paragraph 6 is amended as follows:***		
134f		***6. Where the competent authority of the endorsing administrator has wellfounded 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.***		
135	(16) Article 34 is amended as follows,	(16) Article 34 is amended as follows,	(16) Article 34 is amended as follows:~~,~~ **:**	
136				

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:	
137	‘ 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:	‘ 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:	‘ 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:	
138	(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;	(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 or as EU Paris-aligned Benchmarks;	(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 ***commodity benchmarks subject to Annex II, as*** EU Climate Transition Benchmarks or as EU Paris-aligned Benchmarks;	
139	(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	(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	(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	

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	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.; ,	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.**'**; ,	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.**'**; ,	
139a		***(aa) Article 34, paragraph 1a is amended as follows:***		
139b		***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 Article 20(1), points (a) and (c), 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.***		We would agree that ESMA be the competent authority. See comment in line 148i.
140	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:	
141	‘	‘	‘	

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	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.; ,	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~~ ***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.***'***; ,	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~~ ***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.***'***; ,	
141a		***(16a) in Article 36(1), points (a) to (d), are replaced by the following:***		
141b		***1. ESMA shall establish and maintain a public register that contains the following information:***		
141c		***(a) the identities, including, when available, the Legal Entity Identifier (LEI), of the administrators authorised or registered pursuant to Article 34 and the competent authorities responsible for the supervision thereof;***		

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141d		***(b) the identities, including, when available, the LEI, of administrators that comply with the conditions laid down in Article 30(1), the list of benchmarks, including, when available, 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;***		
141e		***(c) the identities, including, when available, the LEI, of the administrators that acquired recognition in accordance with Article 32, the list of benchmarks, including, when available, their ISINs, referred to in Article 32(7) and, where applicable, the third country competent authorities responsible for the supervision thereof;***		
141f		***(d) the benchmarks that are endorsed in accordance with the procedure laid down in Article 33, the identities of their administrators, and the identities of the endorsing administrators or endorsing supervised entities.;***		

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142	(17) in Article 36(1), the following points (e) to (j) are added:	(17) in Article 36(1)~~, *the following points (e) to (j) are added*~~:	(17) in Article 36(1), the following points (e) to ~~*(j)*~~***(k)*** are added:	
142a		***(a) points (e) to (j) are amended:***		
143	‘ (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;	‘ (e) the benchmarks***, including, when available, their ISINs,*** subject to a statement published by ESMA or a competent authority pursuant to Article 24(2), and the hyperlinks to such statements;	‘ (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;	
144	(f) the benchmarks subject to designations by competent authorities notified to ESMA pursuant to Article 24(4), and the hyperlinks to such designations;	(f) the benchmarks***, including, when available, their ISINs,*** subject to designations by competent authorities notified to ESMA pursuant to Article 24(4), and the hyperlinks to such designations;	(f) the benchmarks subject to designations by competent authorities notified to ESMA pursuant to Article 24(4), and the hyperlinks to such designations;	
145	(g) the benchmarks subject to designations by ESMA, and the hyperlinks to such designations;	(g) the benchmarks***, including, when available, their ISINs,*** subject to designations by ESMA, and the hyperlinks to such designations;	(g) the benchmarks subject to designations by ESMA, and the hyperlinks to such designations;	

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146	(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.;	(h) the benchmarks***, including, when available, their ISINs,*** subject to public notices issued by ESMA and competent authorities pursuant to Article 24a(5), and the hyperlinks to such public notices.;	(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.;	
147	(i) the list of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks available for use in the Union;	(i) the list of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks***, including, when available, their ISINs,*** available for use in the Union;	(i) the list of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks available for use in the Union;	
148	(j) the list of critical benchmarks.; ,	(j) the list of critical benchmarks***, including, when available, their ISINs.'***; ,	(j) the list of critical benchmarks.;	
148a			***(k) the list of commodity benchmarks subject to Annex II*** ,	
148b		***(b) point (ja) is added:***		
148c				

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		(ja) the list of commodity benchmarks subject to Annex II, including, when available, their ISINs, available for use in the Union.;		
148d		***(17a) Article 40, paragraph 1 is amended as follows:***		
148e		***'1. For the purposes of this Regulation, ESMA shall be the competent authority for:***		
148f		***(a) administrators of critical benchmarks as referred to in Article 20(1), points (a) and (c);***		
148g		***(b) administrators of the benchmarks referred to in Article 32;***		We agree that ESMA should be the centralised competent authority for non-EU benchmark administrators seeking recognition.
148h		***(c) administrators of the benchmarks that are significant within the Union as referred to in Article 24(2), (5) and (6);***		We oppose the Parliament's suggestions to appoint ESMA as the competent authority for supervision, authorisation, and designation of both 'EU benchmarks significant

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				within the Union'. NCAs have developed substantive expertise and no failure has been shown to justify any change in this construct. Feedback suggests EU administrators would have a preference towards NCA supervision over their benchmarks. In addition, having both ESMA and NCAs simultaneously supervising EU administrators for different benchmarks would unnecessarily increase complexity in the supervisory framework.
148i		***(d) administrators endorsing benchmarks provided in a third country in accordance with Article 33;***		We agree with the EP's suggestion. We see benefit of having ESMA as the centralised competent authority for non-EU benchmark administrators. This would introduce further simplicity in the authorisation and supervision frameworks for non-EU administrators, regardless of their access method.
148j		***(e) administrators of EU Climate Transition Benchmarks and EU Paris Aligned Benchmarks as referred to in Article 3(23a) and (23b).;***		We oppose the EP's suggestion to appoint ESMA as the competent authority for EU benchmarks using CTB/PAB labels. Having both ESMA and NCAs simultaneously supervising EU administrators for different benchmarks would

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				unnecessarily increase complexity in the supervisory framework. As for non-EU benchmark administrators, we agree with ESMA being the competent authority for their CTB/PAB-labelled benchmarks.
149	(18) in Article 41(1), the following points (k) and (l) are added:	(18) in Article 41(1), the following points (k) and (l) are added:	(18) in Article 41(1), the following points (k) and (l) are added:	
150	‘ (k) designate a benchmark as significant pursuant to Article 24(3);	‘ (k) designate a benchmark as significant pursuant to Article 24(3);	‘ (k) designate a benchmark as significant pursuant to Article 24(3);	
151	(l) in case of reasonable grounds to suspect a breach of any of the requirements laid down in Chapter 3A, require that an administrator ceases, for a maximum period of 12 months:	(l) in case of reasonable grounds to suspect a breach of any of the requirements laid down in Chapter 3A, require that an administrator ceases, for a maximum period of 12 months:	(l) in case of reasonable grounds to suspect a breach of any of the requirements laid down in Chapter 3A ***of Title III***, require that an administrator ceases, for a maximum period of 12 months:	
152	(i) to provide EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks;	(i) to provide EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks;	(i) to provide EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks;	

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153	(ii) to refer to EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks in the name of the benchmarks they make available for use in the Union, or in the legal or marketing documentation for those benchmarks;	(ii) to refer to EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks in the name of the benchmarks they make available for use in the Union, or in the legal or marketing documentation for those benchmarks;	(ii) to ~~*refer to*~~***use the terms*** EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks in the ~~*name of the*~~ ***names of*** benchmarks ~~*they make*~~***it makes*** available for use in the Union, or in the legal or marketing documentation for those benchmarks;	We would caution against having in place requirements regarding the inclusion of 'EU CTB' and 'EU PAB' in the names of ESG benchmarks. This would unnecessarily burden administrators with administrative tasks, such as updating all documentation: public registers, contracts, etc., without a clear regulatory purpose. These indices are already adequately labelled, with administrators offering benchmarks including the name Paris-Aligned (PAB) and Climate Transition (CTB) Benchmark, which is already well recognised in the industry.
154	(iii) to refer to compliance with the requirements applicable to the provision of such benchmarks in the name of the benchmarks they make available for use in the Union, or in the legal or marketing documentation for those benchmarks;; ,	(iii) to refer to compliance with the requirements applicable to the provision of such benchmarks in the name of the benchmarks they make available for use in the Union, or in the legal or marketing documentation for those benchmarks;**'**; ,	(iii) to ~~*refer to*~~***imply*** compliance with the requirements applicable to the provision of such benchmarks in the name of the benchmarks ~~*they make*~~***it makes*** available for use in the Union, or in the legal or marketing documentation for those benchmarks;**'**; ,	
155	(19) Article 42 is amended as follows:	(19) Article 42 is amended as follows:	(19) Article 42 is amended as follows:	

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156	(a) in paragraph 1, point (a) is replaced by the following:	(a) in paragraph 1, point (a) is replaced by the following:	(a) in paragraph 1, point (a) is replaced by the following:	
157	‘ (a) any infringement of Articles 4 to 16, of Articles 19a, 19b, 19c and 21, of Articles 23 to 29 or of Article 34 where those Articles apply; and; ’,	‘ (a) any infringement of Articles 4 to 16, of Articles 19a, 19b, 19c and 21, of Articles 23 to 29 or of Article 34 where those Articles apply; and’; ’,	‘ (a) any infringement of Articles 4 to 16, of Articles 19a, 19b, 19c and 21, of Articles 23 to 29 or of Article 34 where those Articles apply; and’; ’,	
158	(b) paragraph 2 is amended as follows	(b) paragraph 2 is amended as follows	(b) paragraph 2 is amended as follows:	
159	(i) in point (g), point (i) is replaced by the following:	(i) in point (g), point (i) is replaced by the following:	(i) in point (g), point (i) is replaced by the following:	
160	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, EUR 500 000 or in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023; or; ’,	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, EUR 500 000 or in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023; or’; ’,	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, EUR 500 000 or in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023; or’; ’,	

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161	(ii) in point (h), point (i) is replaced by the following:	(ii) in point (h), point (i) is replaced by the following:	(ii) in point (h), point (i) is replaced by the following:	
162	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of , Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, either EUR 1 000 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023, or 10 % of its total annual turnover according to the last available accounts approved by the management body, whichever is the higher; or; ,	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of , Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, either EUR 1 000 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023, or 10 % of its total annual turnover according to the last available accounts approved by the management body, whichever is the higher; or’; ,	‘ (i) for infringements of Articles 4 to 10, of Article 11(1), points (a), (b), (c) and (e), of ~~,~~Article 11(2) and (3), of Articles 12 to 16, of Article 21, of Articles 23 to 29 and of Article 34, either EUR 1 000 000 or, in the Member States whose official currency is not the euro, the corresponding value in the national currency on 31 December 2023, or 10 % of its total annual turnover according to the last available accounts approved by the management body, whichever is the higher; or’; ,	
162a		***(19a) in Article 48e(1), the introductory wording is amended as follows:***		
162b		***Where, in accordance with Article 48i(5), ESMA finds that a person has, intentionally or negligently,***		

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		committed one or more of the infringements listed in point (a) of Article 42(1), or has failed to cooperate or comply with 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. 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. ;		
162c		***(19b) Article 48f, paragraph 1, introductory part is amended as follows:***		
162d		***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***		

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		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.;		
162e		***(19c) in Article 54, a new paragraph is added:***		
162f		***7a. By 31 December 2028, the Commission shall, after consulting ESMA, present a report to the European Parliament and the Council on the need to regulate benchmarks making ESG-related claims, in addition to EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, taking into account the situation and availability of ESG benchmarks in European and global markets and their market up-take, analysing whether they would be considered significant benchmarks, and studying the costs and effects on market availability and the evolving nature of the sustainable indicators and the methods used to measure them. The report shall also take into account the need for coherence and consistency with***		

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		other Union law, in particular Regulation (EU) 2019/2088, Directive 2011/61/EU and Directive 2009/65/EC as well as the ESMA Guidelines on funds' names using ESG or sustainability-related terms. That report shall be accompanied by an impact assessment and, where appropriate, a legislative proposal.;		
163	(20) Article 49 is amended as follows:	(20) Article 49 is amended as follows:	(20) Article 49 is amended as follows:	
164	(a) paragraphs 2 and 3 are replaced by the following:	(a) paragraphs 2 and 3 are replaced by the following:	(a) paragraphs 2 and 3 are replaced by the following:	
165	' 2. The power to adopt delegated acts referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 33(7), 51(6) and 54(3) shall be conferred on the Commission for a period of five years from 30 June 2024. The Commission shall draw up a report in respect of the delegation of power no later than 31 December 2028. The delegation of power shall be tacitly extended for further periods of identical duration, unless the European Parliament or	' 2. The power to adopt delegated acts referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 33(7), 51(6) and 54(3) shall be conferred on the Commission for a period of five years from 30 June 2024. The Commission shall draw up a report in respect of the delegation of power no later than 31 December 2028. The delegation of power shall be tacitly extended for further periods of identical duration, unless the European Parliament or	' 2. The power to adopt delegated acts referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 33(7), 51(6) and 54(3) shall be conferred on the Commission for a period of five years from 30 June 2024. The Commission shall draw up a report in respect of the delegation of power no later than 31 December 2028. The delegation of power shall be tacitly extended for further periods of identical duration, unless the European Parliament or	

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	the Council opposes such extension not later than three months before the end of each period.	the Council opposes such extension not later than three months before the end of each period.	the Council opposes such extension not later than three months before the end of each period.	
166	3. The delegation of power referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) and 54(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.; ,	3. The delegation of power referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) and 54(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.’; ,	3. The delegation of power referred to in Articles 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) and 54(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.’; ,	
167	(b) paragraph 6 is replaced by the following:	(b) paragraph 6 is replaced by the following:	(b) paragraph 6 is replaced by the following:	
168	‘ 6. A delegated act adopted pursuant to Article 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) or 54(3) shall enter into force only if	‘ 6. A delegated act adopted pursuant to Article 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) or 54(3) shall enter into force only if	‘ 6. A delegated act adopted pursuant to Article 3(2), 13(2a), 19a(2), 19c(1), 20(6), 24(7), 27(2b), 30(2a), 30(3a), 33(7), 48i(10), 48l(3), 51(6) or 54(3) shall enter into force only if	

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	no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.. ,	no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.***'***. ,	no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.***'***. ,	
169	(21) in Article 51, the following paragraph 4c is inserted:	(21) in Article 51, the following paragraph ~~*4c*~~ is inserted:	(21) in Article 51, the following paragraph 4c is inserted:	
170	‘ 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	‘ 4c. Competent ***national*** authorities ~~*and ESMA shall ensure that*~~***intending to designate a*** benchmark ~~*administrators that were authorised, registered, endorsed or recognised on [PO please insert the date = date of*~~***provided by an administrator that was included in the ESMA register on [date of entry into*** application of this amending Regulation ***– 1 day***] ~~*can benefit from a simplified procedure where they apply for authorisation registration, recognition, or*~~	‘ 4c. Competent ***national*** authorities ~~*and ESMA shall ensure that benchmark administrators that were authorised, registered, endorsed or recognised*~~***intending to designate a benchmark provided by an administrator that was included in the ESMA register*** on [PO please insert the date = date of application of this amending Regulation ***– 1 day***] ~~*can benefit from a simplified procedure where they apply for authorisation registration, recognition, or endorsement*~~	

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	of this amending Regulation + two years]; ,	~~*endorsement pursuant to Article 24a(1), (2), or (3), as applicable, by ... [PO please insert the date =*~~ ***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 entry into application of this amending Regulation – 1 day] shall do so by ...[nine months*** date of ***entry into*** application of this amending Regulation~~*+ two years];*~~***].***	~~*pursuant to Article 24a(1), (2), or (3), as applicable, by ...*~~***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*** [PO please insert the date = date of application of this amending Regulation ~~*+ two years*~~***– 1 day] shall do so within six months after [PO please insert the date = date of application of this amending Regulation***];~~***.***	
170a		***Benchmark administrators that were authorised, registered, endorsed or recognised on [date of entry into application of this amending Regulation] shall retain this status for nine months after entry into application of this amending Regulation. Where one or more of their benchmarks are designated within nine months after [date of entry into 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.***	***Benchmark administrators that were authorised, registered, endorsed or recognised on [PO please insert the date = date of application of this amending Regulation] shall retain this status for six months after entry into application of this amending regulation or until the completion of the designation process initiated during such 6-month period, whichever is later. Where one or more of their benchmarks are designated within that period , 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.***	

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170b		***Administrators of significant benchmarks that were authorised, registered, endorsed or recognised on [date of entry into 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).'***	***Administrators of significant benchmarks that were authorised, registered, endorsed or recognised on [PO please insert the date = 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).'*** ,	
170c		***Administrators of benchmarks that were authorised, registered, endorsed or recognised on [date of entry into application of this amending Regulation], who voluntarily opt-in to this Regulation by ...[nine months after the date of entry into force of this amending Regulation], shall not be obliged to re-apply for authorisation, registration, recognition or endorsement. ;***		
170d		***(21a) Article 53, paragraph 1 is deleted;*** ,		

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171	Article 2 Entry into force and application	Article 2 Entry into force and application	Article 2 Entry into force and application	
172	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	
173	It shall apply from 1 January 2026	It shall apply from 1 January 2026	It shall apply from 1 January 2026	
174	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	
175	Done at Brussels,	Done at Brussels,	Done at Brussels,	
176	For the European Parliament	For the European Parliament	For the European Parliament	
177	The President	The President	The President	
178				

	Commission Proposal	EP Mandate	Council Mandate	MS comments
	For the Council	For the Council	For the Council	
179	The President	The President	The President	