Commission Delegated Regulation (EU) 2020/1817 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum content of the explanation on how environmental, social and governance factors are reflected in the benchmark methodology (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1817

of 17 July 2020

supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum content of the explanation on how environmental, social and governance factors are reflected in the benchmark methodology

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014[(1)], and in particular Article 13(2a) thereof,

Whereas:

(1) The Paris Agreement adopted under the United Nations Framework Convention on Climate Change, approved by the Union on 5 October 2016[(2)] (the 'Paris Agreement'), aims to strengthen the response to climate change, among other means by making investment flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

(2) On 11 December 2019, the Commission adopted its Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'The European Green Deal'[(3)]. The European Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. The implementation of the European Green Deal requires that investors are offered clear, long-term signals to avoid stranded assets and to raise sustainable finance.

(3) Regulation (EU) 2016/1011 requires benchmark administrators to explain how for each benchmark provided and published the key elements of the benchmark methodology reflect environmental, social and governance ('ESG') factors.

(4) Different ways of explaining for each benchmark or family of benchmarks how the key elements of the benchmark methodology reflect ESG factors, would lead to a lack of

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1817. (See end of Document for details)*

comparability between benchmarks and a lack of clarity as to the scope and objectives of the ESG factors. It is therefore necessary to set out the minimum content of such explanations as well as a template to be used.

(5) In order to better adapt the information for investors, the requirement to explain how the key elements of the methodology reflect ESG factors for each benchmark or family of benchmarks provided and published should take into account the underlying assets on which benchmarks are based. This Regulation should not apply to benchmarks which do not have underlying assets that have an impact on climate change such as interest rate benchmarks and foreign exchange benchmarks. In accordance with Article 19 of Regulation (EU) 2016/1011, this Regulation should not apply to commodity benchmarks.

(6) The explanation on how key elements of the benchmark methodology reflect ESG factors should be made at an aggregated weighted average value, and should not be disclosed for each constituent of the benchmarks. Where relevant and appropriate, benchmark administrators should be able to provide additional ESG information.

(7) In order to provide benchmark users with accurate and up-to-date information, benchmark administrators should update the information provided in the template to reflect any changes made to the methodology, and should indicate the reason and the dates at which the information was updated.

(8) In order to provide investors with maximum transparency, benchmark administrators should clearly state whether they do or do not pursue ESG objectives,

HAS ADOPTED THIS REGULATION:

Article 1

Explanation on how ESG factors are reflected in the benchmark methodology

1 Benchmark administrators shall explain, using the template laid down in the Annex to this Regulation, which of the environmental, social and governance (ESG) factors referred to in Annex II to Commission Delegated Regulation (EU) 2020/1816[(4)] they have taken into account when designing their benchmark methodology. They shall also explain how those factors are reflected in the key elements of that methodology, including for the selection of underlying assets, weighting factors, metrics and proxies.

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

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

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

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

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

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

Article 2

Update of the explanation provided

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

Article 3

Entry into force and application

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

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

Done at Brussels, 17 July 2020.

For the Commission

The President

Ursula VON DER LEYEN