Commission Delegated Regulation (EU) 2020/1816 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the explanation in the benchmark statement of how environmental, social and governance factors are reflected in each benchmark provided and published (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1816

of 17 July 2020

supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the explanation in the benchmark statement of how environmental, social and governance factors are reflected in each benchmark provided and published

(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 27(2b) 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)]. That 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 in the benchmark statement how environmental, social and governance ('ESG') factors are reflected in each benchmark or family of benchmarks provided and published.

(4) Different ways of explaining how ESG factors are reflected would lead to a lack of comparability between benchmarks and a lack of clarity as to the scope and objectives

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2020/1816. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

of the ESG factors. It is therefore necessary to specify the content of that explanation and to lay down a template to be used.

(5) In order to better adapt the information for investors, the requirement to explain how ESG factors are reflected in 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.

(6) The explanation on how ESG factors are reflected should display the corresponding score of the relevant ESG factors *vis-à-vis* the benchmark, at an aggregated weighted average value. Such score 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) Due to their characteristics and objectives, specific disclosure requirements should be set out for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, and for significant bond and equity benchmarks.

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

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘equity’ means listed shares;

(b) ‘fixed income’ means listed debt securities, other than those issued by a sovereign issuer;

(c) ‘sovereign debt’ means debt securities issued by a sovereign issuer.

Article 2

Explanation of how ESG factors are reflected in each benchmark or family of benchmarks

1 Benchmark administrators shall explain in the benchmark statement, using the template laid down in Annex I, how the environmental, social and governance (ESG) factors listed in Annex II are reflected in each benchmark or family of benchmarks they provide and publish.

The requirement set out in the first subparagraph shall not apply to interest rate and foreign exchange benchmarks.

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2 The explanation referred to in paragraph 1 shall include the score of the ESG factors *vis-à-vis* the corresponding benchmark and family of benchmark, at an aggregated weighted average value.

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

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

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

6 Benchmark administrators that disclose additional ESG factors in accordance with Article 1(4) of Commission Delegated Regulation (EU) 2020/1817[(4)] shall include the score of those additional ESG factors.

Article 3

Update of the explanation provided

Benchmark administrators shall update the explanation provided whenever significant changes relating to the ESG factors occur and in any case on an annual basis. They shall state the reasons for the update.

Article 4

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

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ANNEX I

TEMPLATE FOR EXPLAINING HOW ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) FACTORS ARE REFLECTED IN THE BENCHMARK STATEMENT

EXPLANATION OF HOW ESG FACTORS ARE REFLECTED IN THE BENCHMARK STATEMENT	
SECTION 1 – CONSIDERATION OF ESG FACTORS	
Item 1. Name of the benchmark administrator.	
Item 2. Type of benchmark or family of benchmarks. *Choose the relevant underlying asset from the list provided in Annex II.*	
Item 3. Name of the benchmark or family of benchmarks.	
Item 4. Are there in the portfolio of the benchmark administrator any EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks, benchmarks that pursue ESG objectives or benchmarks that take into account ESG factors?	# Yes # No
Item 5. Does the benchmark or family of benchmarks pursue ESG objectives?	# Yes # No

Item 6. Where the response to Item 5 is positive, provide below the details (score) in relation to the ESG factors listed in Annex II for each family of benchmarks at aggregated level.
The ESG factors shall be disclosed at an aggregated weighted average value at the level of the family of benchmarks.

(a)	List of combined ESG factors:	Details on each factor:
(b)	List of environmental factors:	Details on each factor:
(c)	List of social factors:	Details on each factor:
(d)	List of governance factors:	Details on each factor:

Item 7. Where the response to Item 5 is positive, provide below the details (score) for each benchmark, in relation to the ESG factors listed in Annex II, depending on the relevant underlying asset concerned.
Alternatively, all of this information may be provided in the form of a hyperlink to a website of the benchmark administrator included in the benchmark statement. The information on the website shall be easily available and accessible. Benchmark administrators shall ensure that information published on their website remains available for five years.
The score of the ESG factors shall not be disclosed for each constituent of the benchmark, but shall be disclosed at an aggregated weighted average value of the benchmark.

a Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (See page 17 of this Official Journal).

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2020/1816. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a)	List of combined ESG factors:	Details on each factor:
(b)	List of environmental factors:	Details on each factor:
(c)	List of social factors:	Details on each factor:
(d)	List of governance factors:	Details on each factor:
Hyperlink to the information on ESG factors for each benchmark:		

Item 8. Data and standards used

(a)	Description of data sources used to provide information on the ESG factors in the benchmark statement. *Describe how the data used to provide information on the ESG factors in the benchmark statement are sourced and whether, and to what extent, data are estimated or reported.*	
(b)	Reference standards. *List the supporting standards used for the reporting under item 6 and/ or item 7.*	

SECTION 2 – ADDITIONAL DISCLOSURE REQUIREMENTS FOR EU CLIMATE TRANSITION AND EU PARIS-ALIGNED BENCHMARKS

Item 9. Where a benchmark is labelled as ‘EU Climate Transition Benchmark’ or ‘EU Paris-aligned Benchmark’, benchmark administrators shall also disclose the following information:

(a)	forward-looking year-on-year decarbonisation trajectory;	
(b)	degree to which the IPCC decarbonisation trajectory (1,5 °C with no or limited overshoot) has been achieved on average per year since creation;	
(c)	overlap between those benchmarks and their investable universe, as defined in Article 1, point (e), of Commission Delegated Regulation (EU) 2020/1818[a], using the active share at asset level.	

SECTION 3 – DISCLOSURE OF THE ALIGNMENT WITH THE OBJECTIVES OF THE PARIS AGREEMENT

a Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (See page 17 of this Official Journal).