



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2020) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

1.1. General background

In 2015, the European Union signed the Paris Climate Agreement. The Paris Climate Agreement sets the objective to strengthen the response to climate change, among other means by making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

The European Green Deal communication confirms the need for long-term signals to direct financial and capital flows to green investment and to avoid stranded assets. This delegated act will contribute to this specific objective. It also follows up on the earlier Action Plan ‘Financing Sustainable Growth’ of March 2018, launching an ambitious and comprehensive strategy on sustainable finance and aiming to reorient capital flows towards sustainable investment to achieve sustainable and inclusive growth.

More broadly, the European Green Deal is the European Union’s response to the climate and environmental-related challenges that are this generation’s defining task. It is a new growth strategy that aims to transform the EU 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, where the environment and health of citizens are protected, and where economic growth is decoupled from resource use. Since private companies and households will have to provide the bulk of the sustainable investments in the next decade, it is crucial to put in place clear long-term signals to guide investors to sustainable investment.

Regulation (EU) 2016/1011 of the European Parliament and of the Council¹ (the Benchmark Regulation) introduces a common framework to ensure the accuracy and integrity of benchmarks referenced in financial instruments, financial contracts or investment funds in the European Union. In doing so, it aims to contribute to the functioning of the internal market, while achieving a high level of consumer and investor protection.

On 24 May 2018, the Commission published its proposal to amend the Benchmark Regulation, in accordance with the Action Plan ‘Financing Sustainable Growth’, with the objective to put forward standards for the methodology of low-carbon benchmarks in the Union.

Regulation (EU) 2019/2089 of the European Parliament and of the Council² introduces a new category of benchmarks, so-called EU Climate Benchmarks (the EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks), and sustainability-related disclosures for all benchmarks.

1.2. Objectives of the Delegated Regulation

The objective of this Delegated Regulation is to set out the minimum standards that EU Climate Transition and EU Paris-aligned Benchmarks should meet in order to be labelled as such, and lay down the transparency requirements on the methodology for both 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).

² Regulation (EU) 2019/2089 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (OJ L 317, 9.12.2019, p. 17).

1.3. Legal background

This Delegated Regulation is based on the empowerment set out in Article 19a(2) of the Benchmark Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In June 2018, the Commission set up a Technical Expert Group on Sustainable Finance (TEG). The mission of the TEG included the provision to the Commission of recommendations as to the minimum technical requirements for the methodology of the EU Climate benchmarks.

In June 2019, the TEG published an interim version of the report, which was subject to a call for feedback running over the summer 2019.

On 30 September 2019, the TEG published its final report. This final report is available at https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/190930-sustainable-finance-teg-final-report-climate-benchmarks-and-disclosures_en.pdf.

The Commission staff held meetings with stakeholders to discuss the future delegated measures in the fall of 2019 and early 2020.

3. IMPACT ASSESSMENT

In accordance with the Benchmark Regulation as amended by Regulation (EU) 2019/2089, the Commission is empowered to specify sustainability-related measures for benchmarks. It includes three topics: minimum requirements for the construction of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, the minimum content of the explanation of how the key elements of the benchmark methodology reflect ESG factors and the information to be provided in the benchmark statement as regards the explanation of how ESG factors are reflected.

The Technical Expert Group on Sustainable Finance (TEG) was mandated by the Commission to deliver technical recommendations on all of those aspects. The TEG published its final report on climate benchmarks and benchmarks' ESG disclosures in September 2019, following numerous engagement with stakeholders via roundtables, workshops and a 6-week call for feedback that was conducted in the summer 2019.

TEG's report

The TEG final report contains a set of minimum requirements for the construction of EU Climate Transition and EU Paris-aligned Benchmarks and minimum ESG disclosure requirements that should be applicable to all benchmarks, with some exceptions.

The Commission has considered all representations received, including the TEG's report and the responses to the TEG's call for feedback, as well as the input provided to the Commission by stakeholders during bilateral meetings or conference calls.

While the Commission generally agrees with the approach taken by the TEG, the delegated acts nevertheless deviate from the TEG's report in a number of instances, in particular in relation to ESG disclosure requirements. The objective is to streamline and simplify the TEG's approach to provide more clarity on the set of indicators and on the information that benchmark administrators are expected to disclose. The amendments are put in simple terms and clarify the technical recommendations put forward by the TEG, improve the level of transparency and provide greater predictability for benchmark administrators.

When specifying the minimum criteria for the construction of EU Climate Transition and EU Paris-aligned Benchmarks and ESG disclosure requirements, the Commission kept in mind the overarching principle of proportionality, while maintaining a certain level of flexibility for benchmark administrators.

Proportionality

The delegated acts further specify the empowerments contained in the Benchmark Regulation, both in terms of the new EU Climate Benchmarks and the ESG disclosure requirements, ensuring the proportionate application of the latter.

Taking into account the TEG report and the feedback received from stakeholders, the Commission has sought to introduce a proportionate approach to the minimum requirements for constructing EU Climate Transition and EU Paris-aligned Benchmarks, and minimum ESG disclosure requirements for benchmark administrators.

In accordance with the empowerments contained in the Benchmark Regulation, the Commission believes there is a need to distinguish between ESG disclosure requirements as regards the methodology and ESG disclosure requirements in the benchmark statement, as they do not pursue the same objectives for investors.

Benchmark administrators are currently not required to disclose a list of ESG factors, although a number of them already do so, within so-called ‘factsheets’. Hence, this exercise will be new only to some of them. The objective of the Commission is to align to the extent possible on already existing market practices and indicators to avoid disproportionate costs. For this reason, the ESG factors are based on the recommendation of the TEG report that has been subject to extensive market consultation.

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Furthermore, the Commission does not intend to mandate the disclosure of ESG ratings for all benchmarks, as this topic is being addressed in a separate and parallel work stream under the Action Plan on Sustainable Finance.

Finally, while the TEG report recommends the use of a ‘green to brown share ratio’, such metric is not included in the delegated acts, as those notions have not yet been defined at EU level and are being considered in a separate and parallel work stream under the upcoming taxonomy Regulation.

Flexibility

The requirements laid down under the delegated act as regards minimum standards for EU Climate Transition Benchmarks and Paris-aligned Benchmarks maintain a certain degree of flexibility in the design of the methodology of benchmarks, in order to allow room for the market to develop innovative strategies and adapt to the specific need of investors.

Regarding the delegated act on the minimum content of the explanation of how ESG factors are reflected in the benchmark methodology, benchmark administrators should only report on the ESG factors that they use when pursuing ESG objectives, and how they do so.

Finally, regarding the delegated act on the benchmark statement, benchmark administrators that do not pursue ESG objectives will not be bound by the requirements when they explicitly state this in the relevant template annexed to the benchmark statement.

3.1 Analysis of costs and benefits

One of the delegated acts specifies minimum standards for designing EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks. Both benchmarks are voluntary labels and therefore the requirements set out in the related delegated act only apply to benchmark administrators that choose to opt-in for the regime. Since the delegated act lays down minimum standards, benchmark administrators will be allowed to maintain a certain degree of flexibility in their design, so that compliance costs would be limited. More generally, this approach would provide clear and harmonised rules on how to design such benchmarks, which should allow to possibly reduce the costs of developing internal policies, but also allow room for the market to develop innovative strategies, and address the demand of investors willing to make climate-conscious investment strategies.

The two delegated acts on, respectively, minimum ESG disclosures on the methodology and on minimum ESG disclosures in the benchmark statement, will require benchmark administrators to adapt their IT infrastructure to accommodate the new flow of information and disclosure requirements. It is to be highlighted it is already current market practice for benchmark administrators to disclose ESG information in so-called ‘factsheets’, therefore compliance costs with the new rules are expected to be limited.

The ESG information to be disclosed by benchmark administrators will improve the level of comparability among benchmarks and provide clarity for investors willing to make informed climate related investments.

3.2 Subsidiarity

The Benchmark Regulation is binding in its entirety and directly applicable in all Member States. The Benchmark Regulation contains a transitional period for critical benchmarks and third country benchmarks that may continue to be used in the Union without authorisation until end 2021. The legal basis for the Benchmark Regulation is Article 114 of the Treaty on Functioning of the European Union and any changes to that Regulation shall comply with the same legal basis.

An increasing number of investors pursue low-carbon investment strategies and use low-carbon benchmarks to measure the performance of investment portfolios.

In order to maintain the proper functioning of the internal market for the benefit of investors and to ensure a high level of consumer and investor protection, the Benchmark Regulation as amended introduces a regulatory framework which lays down minimum requirements for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks at Union level. The establishment of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, underpinned by a methodology linked to the commitments laid down in the Paris Agreement regarding carbon emissions, will contribute to increase transparency and help prevent greenwashing.

In the absence of a harmonised framework to ensure the accuracy and integrity of the main categories of low-carbon benchmarks used in individual or collective investment portfolios, it is likely that differences in Member States’ approaches will create obstacles to the smooth functioning of the internal market.

4. LEGAL ELEMENTS OF THE DELEGATED ACT

The right to adopt delegated acts is provided for under Article 49 of the Benchmark Regulation.

- Article 1 lays down the definitions applicable in this Regulation.
- Article 2 lays down the reference temperature scenario for the construction of EU Climate Transition and EU Paris-aligned Benchmarks.
- Article 3 lays down minimum requirements regarding the equity allocation constraints.
- Article 4 specifies requirements regarding the calculation of greenhouse gas (GHG) intensity or absolute GHG emissions.
- Article 5 lays down minimum requirements relating to the inclusion and phase-in of Scope 3 (GHG) emissions data.
- Article 6 lays down rules relating to companies setting and publishing GHG emission reduction targets.
- Article 7 lays down minimum requirements relating to the decarbonisation trajectory for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.
- Article 8 sets out the rules to apply where there is a change in the calculation of GHG emissions.
- Article 9 lays down the baseline reduction of GHG emissions for Climate Transition Benchmarks compared to the investable universe.
- Article 10 lays down the baseline reduction of GHG emissions for Paris-aligned Benchmarks compared to the investable universe.
- Article 11 lays down exclusions for EU Paris-aligned Benchmarks.
- Article 12 lays down rules regarding transparency requirements for estimations.
- Article 13 lays down rules regarding the disclosure of the decarbonisation trajectory.
- Article 14 lays down rules about the accuracy of data sources.

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supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks

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 596/2014³, and in particular Article 19a(2) thereof,

Whereas:

- (1) The Paris Agreement, adopted under the United Nations Framework Convention on Climate Change approved by the Union on 5 October 2016⁴ (the ‘Paris Agreement’), aims to strengthen the response to climate change, among other means by making finance 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’⁵. 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 establishes EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks. Those benchmarks are underpinned by a methodology linked to the commitments laid down in the Paris Agreement. It is necessary to specify the minimum standards applicable to both types of benchmarks. EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks pursue similar objectives but vary in their level of ambition. Most of the minimum standards should therefore be common to both types of benchmark, but the thresholds set should vary depending on the type of benchmark.
- (4) There are currently not enough data to assess the carbon footprint resulting from decisions made by sovereign entities. Sovereign-based issuances should therefore not

³ OJ L 171, 29.6.2016, p. 1.

⁴ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

⁵ COM(2019) 640 final.

be eligible constituents of Climate Transition Benchmarks and EU Paris-aligned Benchmarks.

- (5) The benchmark methodology of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks should be linked to the commitments laid down in the Paris Agreement. It is therefore necessary to use the 1,5°C scenario, with no or limited overshoot, referred to in the Special Report on Global Warming of 1,5°C from the Intergovernmental Panel on Climate Change (IPCC)⁶ ('IPCC scenario'). That IPCC scenario is in line with the Commission's objective to reach net zero greenhouse gas (GHG) emissions by 2050, set out in the European Green Deal. To be in line with the IPCC scenario, investments should be reallocated from fossil-fuels dependent activities to green or renewable activities and the climate impact of those investments should improve year after year.
- (6) The sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council⁷, including oil, gas, mining and transportation, are sectors that highly contribute to climate change. To ensure that EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks provide a realistic image of the real economy, including of sectors that should actively reduce GHG emissions to make the objectives of the Paris Agreement attainable, the exposure of those benchmarks to those sectors should not be less than the exposure of their underlying investable universe.
- (7) The calculation of GHG emissions should be comparable and consistent. It is therefore necessary to lay down rules about how often those calculations should be updated and, where applicable, about the currency to be used.
- (8) A decarbonisation based only on Scope 1 and Scope 2 (GHG) emissions could lead to counterintuitive results. It should therefore be clarified that the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks should not only consider direct emissions from companies, but also emissions assessed on a life-cycle basis and thus including Scope 3 (GHG) emissions. However, due to the insufficient quality of the data currently available for Scope 3 GHG emissions, it is necessary to set out an appropriate phase-in timeline. That phase-in timeline should be based on the list of economic activities set out in Regulation (EC) No 1893/2006.
- (9) Benchmark administrators should have the possibility to overweight companies based on the decarbonisation objectives set by those companies. Specific rules relating to decarbonisation targets reported by individual companies should therefore be set out.
- (10) EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks should demonstrate their ability to decarbonize themselves from one year to the other. The minimum decarbonisation trajectory should be calculated using the IPCC scenario. Furthermore, in order to prevent greenwashing, conditions for the deviation from the decarbonisation trajectory and for the right to continue to label a benchmark as an EU

⁶ IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty.

⁷ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

Climate Transition Benchmark or as an EU Paris-aligned Benchmark should be specified.

- (11) The main parameter to calculate the decarbonisation trajectory should be the GHG intensity, a parameter that ensures comparability across sectors and is not biased for or against a particular sector. To calculate the GHG intensity, the market capitalisation of the concerned company is necessary. However, where benchmarks apply to fixed-income corporate instruments, the market capitalisation might not be available for companies issuing those instruments that do not have equity securities listed. It should therefore be laid down that where EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks apply to fixed-income corporate instruments, benchmark administrators should be allowed to use GHG emissions calculated on an absolute basis instead of GHG intensity as a parameter to calculate GHG emissions.
- (12) To ensure comparability and consistency of GHG emission data, rules on how to calculate changes in GHG intensity or absolute GHG emissions should be laid down.
- (13) Attaining the objectives of the Paris Agreement requires that both EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks have a baseline percentage reduction in exposure to GHG intensive assets compared to their parent benchmarks or underlying investment universes. However, that percentage reduction should be more significant for Paris-aligned Benchmarks, which, by nature, are more ambitious than EU Climate Transition Benchmarks.
- (14) EU Paris-aligned Benchmarks should not contribute to the promotion of investments in financial instruments issued by companies that violate global standards such as the United Nations Global Compact (UNGC) Principles. It is therefore necessary to lay down specific criteria to establish a list of exclusions for those benchmarks that should include any exclusion criteria that are based on climate-related or other environmental, social and governance (ESG) factors.
- (15) In order to support a decrease in the use of polluting energy sources and a proper transition to renewable ones, it is appropriate to set out specific exclusions for Paris-aligned benchmarks, whereby benchmark administrators should exclude companies that derive more than a set percentage of their revenues from coal, oil or gas. The changes in the share of those energy sources out of the global primary energy supply from 2020 to 2050, as expected in the IPCC scenario, should be taken into account to set out those specific exclusions. In particular, based on table 2.6 of the Special Report on Global Warming of 1,5°C from the IPCC, between 2020 and 2050 the use of coal is expected to drop between 57 % and 99 %, the use of oil is expected to drop between 9 % and 93 % and the use of gas is expected to go up by 85 % or to drop by 88 %. Gas can be used during the transition to a low carbon economy, in particular as a replacement for coal, which explains its wider expected range of evolution, although the expected median decrease of its use is 40 %. For the same reason, it is necessary to introduce exclusions in relation to companies that derive more than a set percentage of their revenues from electricity generation activities.
- (16) To ensure transparency for the methodology used for the EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, it is appropriate to lay down rules about the necessary disclosures pertaining to the decarbonisation trajectory and the data sources for both categories of benchmarks. For the same reason, it is appropriate to lay down disclosure requirements applicable to benchmark administrators who use estimations for GHG emissions data, including the case where the estimated data are provided by an external data provider.

- (17) It is appropriate to lay down rules about the quality and accuracy of data sources in order to support the harmonisation of the methodology for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks,

HAS ADOPTED THIS REGULATION:

CHAPTER I DEFINITIONS

Article 1

Definitions

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

- (a) ‘greenhouse gas (GHG) emissions’ means greenhouse gas emissions as defined in Article 3, point (1), of Regulation (EU) 2018/842 of the European Parliament and of the Council⁸;
- (b) ‘absolute greenhouse gas (GHG) emissions’ means tonnes of CO₂ equivalent, as defined in Article 2, point (7), of Regulation (EU) No 517/2014 of the European Parliament and of the Council⁹;
- (c) ‘greenhouse gas (GHG) intensity’ means absolute GHG emissions divided by millions of Euros in enterprise value including cash;
- (d) ‘enterprise value including cash’ or ‘EVIC’ means the sum, at fiscal year-end, of the market capitalisation of ordinary shares, the market capitalization of preferred shares, and the book value of total debt and non-controlling interests, without the deduction of cash or cash equivalents;
- (e) ‘investable universe’ means the set of all investable instruments in a given asset class or group of asset classes.

⁸ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

⁹ Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195).

CHAPTER II

MINIMUM STANDARDS ON THE DESIGN OF THE METHODOLOGY

SECTION 1

MINIMUM STANDARDS COMMON FOR EU CLIMATE TRANSITION BENCHMARKS AND EU PARIS-ALIGNED BENCHMARKS

Article 2

Reference temperature scenario

Administrators of EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks shall design the methodology to construct those benchmarks using the IPCC scenario as the reference temperature scenario.

For the purposes of the first subparagraph, the IPCC-scenario shall be the 1,5°C scenario, with no or limited overshoot, referred to in the Special Report on Global Warming of 1,5°C from the Intergovernmental Panel on Climate Change (IPCC).

Article 3

Equity allocation constraint

The exposure of EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks to the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 shall be at least equivalent to the exposure of the underlying investable universe to those sectors.

Article 4

Calculation of GHG intensity or absolute GHG emissions

1. Administrators of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks shall calculate the GHG intensity of those benchmarks using the same currency for all of their underlying assets.
2. Administrators of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks shall recalculate the GHG intensity and the absolute GHG emissions of those benchmarks on a yearly basis.

Article 5

Phase-in of Scope 3 GHG emissions data in the benchmark methodology

The benchmark methodology for EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks shall include Scope 3 GHG emissions data in the following way:

- (a) at [the date of application of this Regulation], Scope 3 GHG emissions data for at least the energy and mining sectors referred to in Divisions 05 to 09 and 19 and 20 of Annex I to Regulation (EC) No 1893/2006;
- (b) within two years from ... [the date of application of this Regulation], Scope 3 GHG emissions data for at least the transportation, construction, buildings, materials and industrial sectors referred to in Divisions 10 to 18, 21 to 33, 41, 42 and 43, 49 to 53 and Division 81 of Annex I to Regulation (EC) No 1893/2006;

- (c) within four years from ... [the date of application of this Regulation], Scope 3 GHG emissions data for all other sectors referred to in Annex I to Regulation (EC) No 1893/2006.

Article 6

Companies setting and publishing GHG emission reduction targets

Administrators of EU Climate Transition Benchmarks and of EU Paris-aligned Benchmarks may increase in those benchmarks the weight of companies that set and publish GHG emission reduction targets, where the following conditions are fulfilled:

- (a) the companies concerned publish consistently and accurately their Scope 1, 2 and 3 GHG emissions;
- (b) the companies concerned have reduced their GHG intensity or, where applicable, their absolute GHG emissions, including Scope 1, 2 and 3 GHG emissions, by an average of at least 7 % per annum for at least three consecutive years.

For the purposes of the first subparagraph, Scope 3 GHG emissions shall be construed in accordance with the phase-in implementation period set out in Article 5.

Article 7

Setting a decarbonisation trajectory

1. The decarbonisation trajectory for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks shall have the following targets:
- (a) for equity securities admitted to trading on a regulated market, as defined in Article 4(1), point (21), of Directive 2014/65/EU of the European Parliament and of the Council¹⁰, or on a multilateral trading facility (MTF), as defined in Article 4(1), point (22), of that Directive, a 7 % reduction of GHG intensity on average per annum;
- (b) for debt securities other than those issued by a sovereign issuer, as defined in Article 4(1), point (60), of Directive 2014/65/EU, and which are admitted to trading on a trading venue, as defined in Article 4(1), point (24), of that Directive, a 7% reduction of GHG intensity on average per annum;
- (c) for debt securities other than those issued by a sovereign issuer, as defined in Article 4(1), point (60), of Directive 2014/65/EU, and which are not admitted to trading on a trading venue, as defined in Article 4(1), point (24), of that Directive, a 7% reduction of absolute GHG emissions on average per annum.
2. The targets referred to in paragraph 1 shall be calculated geometrically, which shall mean that the annual 7% reduction of GHG intensity or of absolute GHG emissions for year 'n' shall be calculated based on the GHG intensity or absolute GHG emissions for the year n-1, in a geometric progression.
3. Administrators of EU Climate Transition Benchmarks shall, for each year in which the targets laid down in paragraph 1 are not achieved, compensate for those missed targets by upwardly adjusting the targets in their decarbonisation trajectory for the following year.

¹⁰ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

For the purposes of the first subparagraph, where the average EVIC of the constituents of the benchmark has risen during the last calendar year, the EVIC of each constituent shall be adjusted by dividing it by an enterprise inflation adjustment factor. That enterprise inflation adjustment factor shall be calculated by dividing the average EVIC of the benchmark constituents at the end of a calendar year by the average EVIC of the index constituents at the end of the previous calendar year.

4. Benchmark administrators shall cease to label a benchmark as an EU Climate Transition Benchmark or as an EU Paris-aligned Benchmark where one of the following conditions is met:
 - (a) the targets laid down in paragraph 1 are not achieved in a given year and the target miss is not compensated in the following year;
 - (b) the targets laid down in paragraph 1 are not achieved for two consecutive years;
 - (c) the targets laid down in paragraph 1 are not achieved on three occasions in any consecutive 10-year period.

Benchmark administrators may relabel a benchmark as an EU Climate Transition Benchmark or as an EU Paris-aligned Benchmark where that benchmark meets the decarbonisation trajectory target for two consecutive years following the loss of the label, unless that benchmark lost that label twice.

Article 8

Change in GHG intensity and absolute GHG emissions

1. The change in GHG intensity or absolute GHG emissions shall be calculated as the percentage change between, on the one hand, the weighted average GHG intensity or absolute GHG emissions of all constituents of the EU Climate Transition Benchmark or the EU Paris-aligned Benchmark at the end of year 'n' and, on the other hand, the weighted average GHG intensity or absolute GHG emissions of all constituents of the benchmarks at the end of year n-1.
2. Benchmark administrators shall use a new base year whenever significant changes in the calculation methodology of GHG intensity or absolute GHG emissions occur.

For the purposes of the first subparagraph, a new base year shall mean the year against which the decarbonisation trajectory referred to in Article 7 is calculated.

SECTION 2

MINIMUM STANDARDS FOR EU CLIMATE TRANSITION BENCHMARKS

Article 9

Baseline reduction of GHG intensity or absolute GHG emissions for EU Climate Transition Benchmarks

The GHG intensity or, where applicable, the absolute GHG emissions for EU Climate Transition Benchmarks, including Scope 1, 2 and 3 GHG emissions, shall be at least 30 % lower than the GHG intensity or absolute GHG emissions of the investable universe.

For the purposes of the first subparagraph of this Article, Scope 3 GHG emissions shall be construed in accordance with the phase-in implementation period set out in Article 5.

SECTION 3

MINIMUM STANDARDS FOR EU PARIS-ALIGNED BENCHMARKS

Article 10

Baseline reduction of GHG intensity or absolute GHG emissions

The GHG intensity or, where applicable, the absolute GHG emissions for EU Paris-aligned Benchmarks, including Scope 1, 2 and 3 GHG emissions, shall be at least 50 % lower than the GHG intensity or absolute GHG emissions of the investable universe.

For the purposes of the first subparagraph, Scope 3 GHG emissions shall be construed in accordance with the phase-in implementation period set out in Article 5.

Article 11

Exclusions for Paris-aligned Benchmarks

1. Administrators of EU Paris-aligned Benchmarks shall exclude all of the following companies from those benchmarks:
 - (a) companies involved in any activities related to controversial weapons;
 - (b) companies involved in any activities related to tobacco;
 - (c) companies that benchmark administrators find in violation of the United Nations Global Compact (UNGC) principles or the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises;
 - (d) companies that derive 1 % or more of their revenues from exploration, mining, extraction, distribution or refining of hard coal and lignite;
 - (e) companies that derive 10 % or more of their revenues from the exploration, extraction, distribution or refining oil fuels;
 - (f) companies that derive 50 % or more of their revenues from the exploration, extraction, manufacturing or distribution of hydrocarbons, hydrogen and carbon monoxide mixtures present in gaseous state;
 - (g) companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO₂e/kWh.

For the purposes of point (a), controversial weapons shall mean controversial weapons as referred to in international treaties and conventions, United Nations principles and, where applicable, national legislation.

2. Administrators of EU Paris-aligned Benchmarks shall exclude from those benchmarks any companies that significantly harm one or more of the environmental objectives referred to in Article 5 of Regulation (EU) XXX/XXX of the European Parliament and of the Council¹¹ [*PO, please insert the number of that Regulation and in the footnote a full reference to that Regulation*].
3. Administrators of EU Paris-aligned Benchmarks shall disclose in their benchmark methodology any additional exclusion criteria they use and which are based on climate-related or other environmental, social and governance (ESG) factors.

¹¹ Regulation (EU) XXX/XXX of the European Parliament and of the Council of on the establishment of a framework to facilitate sustainable investment (OJ L,, p.).

CHAPTER III

TRANSPARENCY AND ACCURACY

Article 12

Transparency requirements for estimations

In addition to the requirements laid down in Annex III to Regulation (EU) 2016/1011, administrators of EU Climate Transition Benchmarks or of EU Paris-aligned Benchmarks shall comply with the following requirements:

- (a) administrators of EU Climate Transition Benchmarks or of EU Paris-aligned Benchmarks that use estimations that are not based on data provided by an external data provider, shall formalise, document and make public the methodology upon which such estimations are based, including:
 - (i) the approach that they have used to calculate GHG emissions, and the main assumptions and the precautionary principles underlying those estimations;
 - (ii) the research methodology to estimate missing, unreported, or underreported GHG emissions;
 - (iii) the external data sets used in the estimation of missing, unreported or underreported GHG emissions;
- (b) administrators of EU Climate Transition Benchmarks or of EU Paris-aligned Benchmarks that use estimations that are based on data provided by an external data provider shall formalise, document and make public all of the following information:
 - (i) the name of the data provider;
 - (ii) the methodology used;
 - (iii) a hyperlink to the website of the data provider.

Article 13

Disclosure of the decarbonisation trajectory

Administrators of EU Climate Transition Benchmarks and of EU Paris-aligned Benchmarks shall formalise, document and make public the decarbonisation trajectories of those benchmarks, the base year used for the determination of those decarbonisation trajectories, and where the targets laid down in the decarbonisation trajectory are not met, the reasons for that failure and the steps that they will take to reach the adjusted target referred to in Article 7(3).

Article 14

Accuracy of the data sources

1. Administrators of EU Climate Transition and of EU Paris-aligned Benchmarks shall ensure that data on Scope 1, 2 and 3 GHG emissions are accurate, in accordance with global or European standards, such as the Corporate Value Chain (Scope 3) Accounting and Reporting Standard¹², the EN ISO 14064 or the EN ISO 14069.

¹² Value Chain (Scope 3) Accounting and Reporting Standard (September 2011), supplement to the GHG Protocol Corporate Accounting and Reporting Standard.

2. Administrators of EU Climate Transition Benchmarks and of EU Paris-aligned Benchmarks shall ensure the consistency, comparability and quality of GHG emissions data.

CHAPTER IV FINAL PROVISIONS

Article 15

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,

*For the Commission
The President
Ursula von der Leyen*