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## Benchmarks Regulation: upcoming amendment

**The European Parliament has recently reached a political agreement with the European Council and European Commission regarding the proposal for a regulation which will modify Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (the “Benchmarks Regulation”).**

The proposal, adopted at first reading by the European Parliament (“EP”), will then be subject to a final review by the EP’s legal and linguistic departments before its final approval and publication in the Official Journal of the European Union. Although such publication and thus coming into force of the proposed changes is only scheduled for after the European elections, it is not expected that substantial changes will be made to the text of the proposal from this point onwards.

**Below are the main amendments to the Benchmarks Regulation:**

### **1. Introduction of new regimes: *EU Climate Transition Benchmarks* and *EU Paris Aligned Benchmarks***

The two new regimes aim at creating reliable and easily recognisable labels for environmentally aware investors across the EU. Their main goal is to promote investments in environmentally responsible companies and environmentally friendly technologies. These new regimes should thus ultimately contribute to the implementation of the UN Paris Agreement on climate change and help to avoid greenwashing. The administrators wishing to avail themselves of either of the two new labels will need to fully comply with the relevant new regime by 30 April 2020.

In order to foster the implementation of the environmental objectives described above, administrators of bond and/or equity benchmarks deemed significant under the Benchmarks Regulation will also be required to provide additional environmental-related disclosures. The benchmark statements for such benchmarks will have to include detailed information related to their alignment with the Paris Agreement global policy. By 31 December 2021 this obligation will extend to all benchmarks or families of benchmarks with the exception of currency and interest rate benchmarks.

Moreover, by 1 January 2022, EU administrators which provide significant benchmarks should endeavour to market one or more EU Climate Transition Benchmarks.

Finally, an administrator who has no EU Climate Transition Benchmarks, EU Paris Aligned Benchmarks or other benchmarks pursuing environmental, social and governance (ESG) objectives in its portfolio will have to include a statement to this effect in all of the benchmark statements it publishes.

## 2. Third country benchmarks - extension of the transitional period

Given that discussions on equivalence decisions for third countries are still ongoing and none have been issued thus far, supervised entities will benefit from an extension of the transitional period for new use of non-compliant benchmarks issued by non-EU administrators (the "**Non-Compliant TC Benchmarks**"). In this context, article 51 of the Benchmarks Regulation will be amended to extend the period during which supervised entities can make new use of Non-Compliant TC Benchmarks **from 1 January 2020 to 31 December 2021**. The continued use of any Non-Compliant TC Benchmark which will have started prior to 31 December 2021 will then still be allowed beyond that date.

## 3. Critical benchmarks - extension of the transitional period

Since the work performed by administrators regarding compliance of critical benchmarks with the requirements of the Benchmarks Regulation is still ongoing and unlikely to be finalised before the fourth quarter of 2019, supervised entities will benefit from an extension of the transitional period for use of non-compliant benchmarks designated as critical benchmarks in accordance with the Benchmarks Regulation **from 1 January 2020 to 31 December 2021**. By 31 December 2021 the administrators of these benchmarks will have to ensure their compliance with the Benchmarks Regulation in order for the EU supervised entities to be allowed to continue using them.

Besides, the period during which national competent authorities will be entitled to order mandatory administration of and/or contribution to a critical benchmark **has been extended from two to five years** after the start of the mandatory administration or contribution.

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