

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 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 596/2014⁽¹⁾, 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 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 establishes EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks. The methodology of those benchmarks is based on 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 benchmarks, but the thresholds 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 be eligible constituents of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.
- (5) Because the methodology of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks is based on the commitments laid down in the Paris Agreement, it is 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)⁽⁴⁾ ('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.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

⁽²⁾ 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).

⁽³⁾ COM(2019) 640 final.

⁽⁴⁾ 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.

- (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 Council ⁽⁵⁾, including the oil, gas, mining and transportation sectors, 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. That requirement should, however, only apply to EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks that are equity benchmarks, to ensure that equity investors who support the objectives of the Paris Agreement maintain their influence, via engagement and voting, on the transition of the company towards more sustainable activities.
- (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 data currently available for Scope 3 GHG emissions, it is necessary to set out an appropriate phase-in timeline and to allow for the use of fossil fuel reserves for a limited period of time. 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. That 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 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, because that parameter 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 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, rather than on the basis of GHG intensity.
- (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 EU Paris-aligned Benchmarks, which, by design, are more ambitious than EU Climate Transition Benchmarks.

⁽⁵⁾ 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).

- (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 exclusion criteria that are based on climate-related or other environmental, social and governance (ESG) considerations. EU Climate Transition benchmarks should comply with those exclusion criteria by 31 December 2022, in accordance with the timeline set out in Regulation (EU) 2016/1011.
- (15) In order to support a decrease in the use of polluting energy sources and a proper transition to renewable ones, it is also appropriate that companies that derive more than a set percentage of their revenues from coal, oil or gas are excluded from the EU Paris-aligned Benchmarks. 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, according to 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 % and the use of oil between 9 % and 93 %, while 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 exclude companies that derive more than a set percentage of their revenues from electricity generation activities.
- (16) To ensure transparency about 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 for benchmark administrators that use estimations for GHG emissions data, whether or not provided by external data providers.
- (17) In order to support the harmonisation of the methodology for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, it is appropriate to lay down rules about the quality and accuracy of data sources,

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 Council ⁽⁶⁾;
- (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 Council ⁽⁷⁾;
- (c) 'greenhouse gas (GHG) intensity' means absolute GHG emissions divided by millions of euros in enterprise value including cash;

⁽⁶⁾ 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).

⁽⁷⁾ 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).

- (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;
- (f) 'base year' means the first of a series of years in a benchmark.

CHAPTER II

MINIMUM STANDARDS FOR THE DESIGN OF THE BENCHMARK 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 and administrators of EU Paris-aligned Benchmarks shall 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) as the reference temperature scenario to design the methodology to construct those benchmarks.

Article 3

Equity allocation constraint

EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks that are based on equity securities admitted to a public market in the Union or in another jurisdiction, shall have an aggregated exposure to the sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 that is at least equivalent to the aggregated 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 administrators of EU Paris-aligned Benchmarks shall calculate the GHG intensity or, where applicable, the absolute GHG emissions of those benchmarks using the same currency for all of their underlying assets.
2. Administrators of EU Climate Transition Benchmarks and administrators of 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

1. 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) As of 23 December 2020, 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 23 December 2020, 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 23 December 2020, Scope 3 GHG emissions data for all other sectors referred to in Annex I to Regulation (EC) No 1893/2006.

2. For the purposes of paragraph 1, point (a), from 23 December 2020 to 31 December 2021, administrators of EU Climate Transition Benchmarks and administrators of EU Paris-aligned Benchmarks may use fossil fuel reserves, where they demonstrate that they cannot calculate nor estimate Scope 3 GHG emissions data.

Article 6

Companies setting and publishing GHG emission reduction targets

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

- (a) the issuers of the constituent securities publish consistently and accurately their Scope 1, 2 and 3 GHG emissions;
- (b) the issuers of the constituent securities 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 a public market in the Union or in another jurisdiction, at least 7 % reduction of GHG intensity on average per annum;
- (b) for debt securities other than those issued by a sovereign issuer, where the issuer of those debt securities has equity securities admitted to a public market in the Union or in another jurisdiction, at least 7 % reduction of GHG intensity on average per annum or at least 7 % reduction of absolute GHG emissions on average per annum;
- (c) for debt securities other than those issued by a sovereign issuer, where the issuer of those debt securities does not have equity securities admitted to a public market in the Union or in another jurisdiction, at least 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 minimum 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 from the base year.

3. Where the average EVIC of the constituent securities of the benchmark has increased or decreased during the last calendar year, the EVIC of each constituent shall be adjusted by dividing it by an enterprise value inflation adjustment factor. That enterprise value 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 benchmark constituents at the end of the previous calendar year.

4. Administrators of EU Climate Transition Benchmarks and administrators of EU Paris-aligned 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.

5. Administrators of EU Climate Transition Benchmarks and administrators of EU Paris-aligned Benchmarks shall no longer be able to label their benchmarks as such where:

- (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; or
- (b) 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.

The selection of a new base year shall be without prejudice to the rules laid down in Article 7(5).

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

Article 10

Exclusions for EU Climate Transition Benchmarks

1. Administrators of EU Climate Transition Benchmarks shall disclose in their methodology whether and how they exclude companies.

2. By 31 December 2022, administrators of EU Climate Transition Benchmarks shall comply with the requirements set out in Article 12(1), points (a), (b) and (c), and Article 12(2).

SECTION 3

MINIMUM STANDARDS FOR EU PARIS-ALIGNED BENCHMARKS

Article 11

Baseline reduction of GHG intensity or absolute GHG emissions for EU Paris-aligned Benchmarks

The GHG intensity or, where applicable, 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 12

Exclusions for EU 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 the cultivation and production of tobacco;
 - (c) companies that benchmark administrators find in violation of the United Nations Global Compact (UNGC) principles or the Organisation for Economic Cooperation 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 of oil fuels;
 - (f) companies that derive 50 % or more of their revenues from the exploration, extraction, manufacturing or distribution of gaseous fuels;
 - (g) companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO₂ e/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 are found or estimated by them or by external data providers to significantly harm one or more of the environmental objectives referred to in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁸⁾, in accordance with the rules on estimations laid down in Article 13(2) of this 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.

⁽⁸⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

CHAPTER III

TRANSPARENCY AND ACCURACY

Article 13

Transparency requirements for estimations

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

- (a) administrators of EU Climate Transition Benchmarks and administrators 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 and administrators 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 and contact details of the data provider;
 - (ii) the methodology used and the main assumptions and precautionary principles, where available;
 - (iii) a hyperlink to the website of the data provider, and to the relevant methodology used, where available.

2. For the purposes of Article 12(2), administrators of EU Paris-aligned Benchmarks shall comply with the following requirements:

- (a) administrators 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 and research methodology that they have used, and the main assumptions and precautionary principles underlying those estimations;
 - (ii) the external data sets used in the estimation;
- (b) administrators 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 and contact details of the data provider;
 - (ii) the methodology used and the main assumptions and precautionary principles, where available;
 - (iii) a hyperlink to the website of the data provider, and to the relevant methodology used, where available.

Article 14

Disclosure of the decarbonisation trajectory

Administrators of EU Climate Transition Benchmarks and administrators 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(4).

*Article 15***Accuracy of the data sources**

1. Administrators of EU Climate Transition Benchmarks and administrators 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 Product Environmental Footprint (PEF), the Organisation Environmental Footprint (OEF) methods ⁽⁹⁾, the Corporate Value Chain (Scope 3) Accounting and Reporting Standard ⁽¹⁰⁾, the EN ISO 14064 or the EN ISO 14069.
2. For the purposes of paragraph 1, administrators of EU Climate Transition Benchmarks and administrators of EU Paris-aligned Benchmarks shall disclose in their methodology the standard used.
3. Administrators of EU Climate Transition Benchmarks and administrators of EU Paris-aligned Benchmarks shall ensure the comparability and quality of GHG emissions data.

CHAPTER IV

FINAL PROVISIONS*Article 16***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

⁽⁹⁾ Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

⁽¹⁰⁾ Value Chain (Scope 3) Accounting and Reporting Standard (September 2011), supplement to the GHG Protocol Corporate Accounting and Reporting Standard.