

Targeted consultation on the regime applicable to the use of benchmarks administered in a third country

Fields marked with * are mandatory.

Introduction

The [EU Benchmark Regulation](#) (the 'Regulation', the 'Benchmark Regulation' or the 'BMR') has been in application since 1 January 2018 and has been modified twice. [This regulation was first revised \(Regulation \(EU\) 2019/2089\)](#) to introduce [two climate-related labels for benchmarks](#) (EU Paris-aligned benchmarks (EU PABs) and EU climate transition benchmarks (EU CTBs)), as well as [ESG disclosures](#) applicable to all benchmarks. Most of those measures apply since 10 April 2020. A [second review of this regulation \(Regulation \(EU\) 2021/168\)](#), in application since 13 February 2021, was carried out, among others, to extend the transitional period for third country benchmarks and introduced a statutory replacement mechanism to ensure a smooth transition in the IBOR area.

Building on a consultation conducted in the autumn of 2019, the Commission is seeking views on further potential improvements in the functioning of the BMR, specifically as regards the rules applicable to non-EEA benchmarks (also: third-country benchmarks) and the impact on market participants of the full entry into application of the third country regime as of 1 January 2024. To that end, the Commission is carrying out a targeted consultation.

The Commission also reminds that other aspects of the BMR are subject to ongoing reflection, notably in the area of sustainability. This includes a study currently being carried out by an external contractor on the feasibility, minimum standards and transparency requirements of an EU ESG Benchmark, on which the Commission will provide a follow-up after its delivery at end-2022.

Responding to this consultation and follow up

In line with the [Commission's objective of "an economy that works for people"](#) this targeted consultation aims to gather views of stakeholders on a possible enhancement of the rules for the use in the Union of third country benchmarks. We are particularly interested in the views of administrators of benchmarks, both those located in the EU and outside the EU, of supervised entities in the EU using benchmarks and of businesses and investors who are end-users of benchmarks for investment, hedging or other purposes. Other stakeholders are also welcome to take part in this consultation. This consultation does not prejudice any outcome nor prevent the Commission from considering alternative options.

You can respond to this consultation via the Commission's EUSurvey web application. Additional materials such as position papers can be uploaded at the end of the process.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-benchmark-review@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [benchmarks](#)
- [EU labels for benchmarks \(climate, ESG\) and benchmarks' ESG disclosures](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish

- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☒ Business association
- ☐ Company/business organisation
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

* First name

Jorge

* Surname

Vecino

* Email (this won't be published)

jorge.vecino@humbrophy.com

* Organisation name

255 character(s) maximum

Commodity Markets Council – Europe (CMCE)

* Organisation size

- ☒ Micro (1 to 9 employees)
- ☐ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

<input type="radio"/> Bangladesh	<input type="radio"/> French Southern and Antarctic Lands	<input type="radio"/> Moldova	<input type="radio"/> South Georgia and the South Sandwich Islands
<input type="radio"/> Barbados	<input type="radio"/> Gabon	<input type="radio"/> Monaco	<input type="radio"/> South Korea
<input type="radio"/> Belarus	<input type="radio"/> Georgia	<input type="radio"/> Mongolia	<input type="radio"/> South Sudan
<input checked="" type="radio"/> Belgium	<input type="radio"/> Germany	<input type="radio"/> Montenegro	<input type="radio"/> Spain
<input type="radio"/> Belize	<input type="radio"/> Ghana	<input type="radio"/> Montserrat	<input type="radio"/> Sri Lanka
<input type="radio"/> Benin	<input type="radio"/> Gibraltar	<input type="radio"/> Morocco	<input type="radio"/> Sudan
<input type="radio"/> Bermuda	<input type="radio"/> Greece	<input type="radio"/> Mozambique	<input type="radio"/> Suriname
<input type="radio"/> Bhutan	<input type="radio"/> Greenland	<input type="radio"/> Myanmar/Burma	<input type="radio"/> Svalbard and Jan Mayen
<input type="radio"/> Bolivia	<input type="radio"/> Grenada	<input type="radio"/> Namibia	<input type="radio"/> Sweden
<input type="radio"/> Bonaire Saint Eustatius and Saba	<input type="radio"/> Guadeloupe	<input type="radio"/> Nauru	<input type="radio"/> Switzerland
<input type="radio"/> Bosnia and Herzegovina	<input type="radio"/> Guam	<input type="radio"/> Nepal	<input type="radio"/> Syria
<input type="radio"/> Botswana	<input type="radio"/> Guatemala	<input type="radio"/> Netherlands	<input type="radio"/> Taiwan
<input type="radio"/> Bouvet Island	<input type="radio"/> Guernsey	<input type="radio"/> New Caledonia	<input type="radio"/> Tajikistan
<input type="radio"/> Brazil	<input type="radio"/> Guinea	<input type="radio"/> New Zealand	<input type="radio"/> Tanzania
<input type="radio"/> British Indian Ocean Territory	<input type="radio"/> Guinea-Bissau	<input type="radio"/> Nicaragua	<input type="radio"/> Thailand
<input type="radio"/> British Virgin Islands	<input type="radio"/> Guyana	<input type="radio"/> Niger	<input type="radio"/> The Gambia
<input type="radio"/> Brunei	<input type="radio"/> Haiti	<input type="radio"/> Nigeria	<input type="radio"/> Timor-Leste
<input type="radio"/> Bulgaria	<input type="radio"/> Heard Island and McDonald Islands	<input type="radio"/> Niue	<input type="radio"/> Togo
<input type="radio"/> Burkina Faso	<input type="radio"/> Honduras	<input type="radio"/> Norfolk Island	<input type="radio"/> Tokelau
<input type="radio"/> Burundi	<input type="radio"/> Hong Kong	<input type="radio"/> Northern Mariana Islands	<input type="radio"/> Tonga
<input type="radio"/> Cambodia	<input type="radio"/> Hungary	<input type="radio"/> North Korea	<input type="radio"/> Trinidad and Tobago
<input type="radio"/> Cameroon	<input type="radio"/> Iceland	<input type="radio"/> North Macedonia	<input type="radio"/> Tunisia
<input type="radio"/> Canada	<input type="radio"/> India	<input type="radio"/> Norway	<input type="radio"/> Turkey

- | | | | |
|--|-----------------------------------|---|--|
| <input type="radio"/> Cape Verde | <input type="radio"/> Indonesia | <input type="radio"/> Oman | <input type="radio"/> Turkmenistan |
| <input type="radio"/> Cayman Islands | <input type="radio"/> Iran | <input type="radio"/> Pakistan | <input type="radio"/> Turks and
Caicos Islands |
| <input type="radio"/> Central African
Republic | <input type="radio"/> Iraq | <input type="radio"/> Palau | <input type="radio"/> Tuvalu |
| <input type="radio"/> Chad | <input type="radio"/> Ireland | <input type="radio"/> Palestine | <input type="radio"/> Uganda |
| <input type="radio"/> Chile | <input type="radio"/> Isle of Man | <input type="radio"/> Panama | <input type="radio"/> Ukraine |
| <input type="radio"/> China | <input type="radio"/> Israel | <input type="radio"/> Papua New
Guinea | <input type="radio"/> United Arab
Emirates |
| <input type="radio"/> Christmas Island | <input type="radio"/> Italy | <input type="radio"/> Paraguay | <input type="radio"/> United Kingdom |
| <input type="radio"/> Clipperton | <input type="radio"/> Jamaica | <input type="radio"/> Peru | <input type="radio"/> United States |
| <input type="radio"/> Cocos (Keeling)
Islands | <input type="radio"/> Japan | <input type="radio"/> Philippines | <input type="radio"/> United States
Minor Outlying
Islands |
| <input type="radio"/> Colombia | <input type="radio"/> Jersey | <input type="radio"/> Pitcairn Islands | <input type="radio"/> Uruguay |
| <input type="radio"/> Comoros | <input type="radio"/> Jordan | <input type="radio"/> Poland | <input type="radio"/> US Virgin Islands |
| <input type="radio"/> Congo | <input type="radio"/> Kazakhstan | <input type="radio"/> Portugal | <input type="radio"/> Uzbekistan |
| <input type="radio"/> Cook Islands | <input type="radio"/> Kenya | <input type="radio"/> Puerto Rico | <input type="radio"/> Vanuatu |
| <input type="radio"/> Costa Rica | <input type="radio"/> Kiribati | <input type="radio"/> Qatar | <input type="radio"/> Vatican City |
| <input type="radio"/> Côte d'Ivoire | <input type="radio"/> Kosovo | <input type="radio"/> Réunion | <input type="radio"/> Venezuela |
| <input type="radio"/> Croatia | <input type="radio"/> Kuwait | <input type="radio"/> Romania | <input type="radio"/> Vietnam |
| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Russia | <input type="radio"/> Wallis and
Futuna |
| <input type="radio"/> Curaçao | <input type="radio"/> Laos | <input type="radio"/> Rwanda | <input type="radio"/> Western Sahara |
| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Yemen |
| <input type="radio"/> Czechia | <input type="radio"/> Lebanon | <input type="radio"/> Saint Helena
Ascension and
Tristan da Cunha | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic
Republic of the
Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Kitts and
Nevis | <input type="radio"/> Zimbabwe |
| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

* Field of activity or sector (if applicable)

☐ Accounting

- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Social entrepreneurship
- ☒ Other
- ☐ Not applicable

* Please specify your activity field(s) or sector(s)

Commodities

* My role in relation with benchmarks is

- ☐ Benchmark administrator
- ☐ Supervised entity using benchmarks (i.e., supervised entities using a benchmark in the sense of the BMR)
- ☐ End-user of benchmarks (e.g., investor or business using a benchmark)
- ☒ Other

* Please specify your role in relation with benchmarks

Trade association for multiple members involved in commodity markets

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* **Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ **Anonymous**

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

☒ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)

Your opinion

Title V of the BMR sets out the conditions under which an EU supervised entity may use a benchmark. As of 1 January 2024, EU supervised entities may use benchmarks administered in a third country, provided that such benchmarks and their administrators are mentioned in the ESMA registry set up under Article 36 of the BMR. This requires prior recognition or endorsement of such benchmarks, or that the third country legislation under which the benchmark administrator is supervised has been recognised as equivalent.

The use of certain non-EEA benchmarks is thought to be widespread, hardly replaceable with that of EU benchmarks, especially for currency or interest rate hedging. This highlights the arguably high economic relevance of those benchmarks. As the full entry into application of this third country regime is approaching, the Commission is assessing the impact of those restrictions on the European market, with a view to avoid unintended impacts on EU market participants, including on their competitiveness.

Questions specific to ‘other’ respondents

Question 1.1 Please provide your estimation of the impact of the entry into application of the rules on third country benchmarks in the BMR on your activities (e.g. on revenues or costs)?

- ☐ No / negligible impact
- ☐ Slight impact
- ☐ Medium impact
- ☐ Severe impact
- ☐ Some / all of our activities would not be sustainable
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 1.1, complementing, if possible, with a quantitative estimation of the expected impact:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 1.2 If available and relevant, please provide notional amounts/values (unit: EUR 1,000) for your organisation’s exposure to or use of third country benchmarks in each of the following settings:

	Foreign exchange	Interest rate	Equity commodity	Other (please specify)	Total
Investment					
Hedging					
Portfolio management					
Other (please specify)					
Total					

Questions to all types of respondents

Question 2.1 Do you believe that the rules applicable to the use of benchmarks administered in a third country, which will fully enter into application as of January 2024, are fit-for-purpose? If not, how would you propose to amend the BMR's third country regime?

- ☐ Those rules are appropriate
- ☐ Those rules are overall appropriate, but minor adjustments are needed
- ☒ Those rules are not fit-for-purpose, and should be reviewed
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 2.1:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The CMCE agrees that the BMR third country regime would be problematic for benchmark users in the EU if fully applied in 2024. The current scope of the BMR is very broad compared to other jurisdictions, which are unlikely to follow suit in the future. Therefore, the current BMR regime for third countries is unlikely to be fit-for-purpose anytime in the future, leading to uncertainty and higher costs for EU users of benchmarks. In principle, the CMCE would cautiously welcome the approach outlined in the consultation paper by the European Commission of essentially reducing the scope of the application of BMR only to third country benchmarks classified as 'strategic' benchmarks. This support would be subject to a clear and robust regulatory definition of which benchmarks would be defined as a 'strategic' and a clear process that would need to be followed when bringing any benchmark into the classification of 'strategic'. CMCE also supports the extension of the current third country extension until the end of 2025 in order to avoid any potential market disruption.

Question 2.2 More specifically, would you be in favour of a framework under which only certain third country benchmarks, deemed 'strategic', would remain subject to restrictions of use similar to the current rules?

Under this hypothesis, the use by EU supervised entities of all other third country benchmarks than those 'strategic' benchmarks would be in principle free, without any additional requirement attached to the status of the administrator.

- ☐ 1 - Totally opposed
- ☐ 2 - Somewhat opposed
- ☐ 3 - Neither opposed nor in favour

- ☒ 4 - Somewhat in favour
- ☐ 5 - Totally in favour
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 2.2:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated above, the CMCE would be cautiously in favour of the introduction of the framework described in the European Commission's consultation of introducing the concept of 'strategic' benchmarks. However, the CMCE believes that a clear and robust definition of what would be defined as a 'strategic' benchmark. A clear process with specific criteria for the designation or classification of a benchmark 'strategic' must be set out in any new legislation at Level 1. Without such provisions, EU users of benchmarks would lack clarity over which benchmarks would fall into the scope of BMR and remain uncertain as to which benchmarks would be usable in the long term.

Question 2.3 Under the hypothesis set out in the question above, there would need to be criteria to determine whether a third country benchmark should be designated as ‘strategic’.

Which of the following criteria should be used, in your view, to identify ‘strategic’ third country benchmarks?

	1 (totally against)	2 (somewhat against)	3 (neither against nor in favour)	4 (somewhat in favour)	5 (totally in favour)	Don't know - No opinion - Not applicable
Notional amount/values of assets referencing the benchmark globally	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Notional amount/values of assets referencing the benchmark in the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Type of use (determination of the amount payable under a financial instrument, providing a borrowing rate, measuring the performance of an investment fund...)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Type of user (investment fund, credit institution, CCP, trade repository, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Core activity of the administrator (bank, trading venue, asset manager, benchmark administrator, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Regulatory status of administrator in home jurisdiction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Type of benchmark (interest rate benchmark, commodity benchmark, equity benchmark, regulated-data benchmark, etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Substitutability of the benchmark (i.e. existence of a similar benchmark administered in the EU)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
EU benchmark labels (including EU Paris Aligned Benchmarks and EU Climate Transition Benchmarks)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain your answer to question 2.3:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.4 Under the hypothesis where the current third country regime would be reformed or repealed, please indicate the degree to which you agree with each of the following statements:

a) The European Commission should be granted powers to designate certain administrators or benchmarks as ‘strategic’ on a case-by-case basis.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 a):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

b) ESMA should be given the task to supervise those third country ‘strategic’ benchmarks.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 b):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

c) ESMA should also be tasked with the supervision of EU-based benchmarks that qualify as ‘strategic’.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 c):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

d) The EU internal scope of regulation of EU benchmarks should also be amended along similar lines, to only comprise certain types of strategic benchmarks, notably with a view to avoid circumvention or unlevel playing field.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☒ 5 - Fully agree
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 d):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Applying the proposed regime only to third countries is likely to lead to EU benchmark administrators being at a competitive disadvantage compared to third country administrators. It may also lead to confusion among EU benchmark users as to the regulatory status of any benchmarks they wish to use. The CMCE would, therefore, be in favour of applying the same treatment to EU benchmarks to avoid an unlevel playing field.

e) The EU BMR could function as an opt-in regime, whereby both EU administrators and third-country administrators would benefit from a form of quality label attached to the BMR as they voluntarily decide to comply with the EU BMR and being subject to supervision. Under this hypothesis, the opt-in regime would be applicable to most benchmarks, while only certain benchmarks (e.g. above-mentioned ‘strategic’ benchmarks) would be subject to mandatory compliance with the EU BMR and supervision.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☒ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 e):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The CMCE is ambivalent on the opt-in regime proposal described by the European Commission's consultation. While it perceives that such regime would allow benchmark administrators to demonstrate their adherence to BMR standards and in turn provide a quality label to their users, it is at the same time concerned that the regime could create an unlevel playing field between a benchmark administrator that opts-in and one that does not, and it may also lead to market confusion for benchmark users as to the actual scope of the BMR.

f) EU benchmark labels (including EU Paris Aligned Benchmarks and EU Climate Transition Benchmarks) should not be accessible to third country administrators, and only be accessible to administrators supervised in the EU and subject to the BMR.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree

- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 f):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If EU benchmark labels were to remain accessible to third country administrators (which are not subject to EU supervision), and if the labelled benchmarks have not been designated as “strategic”, some safeguards should be put in place to maintain the reliability of those labels. Those safeguards should ensure that benchmarks administered in a third country and using an EU label effectively comply, on a continuous basis, with the relevant minimum standards attached to those labels. Regarding such benchmarks administered in a third country and using an EU label.

g) An EU administrator subject to EU supervision should be responsible for compliance of the third country labelled benchmark with the relevant standards (under a mechanism similar to the current endorsement framework).

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 g):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

h) They should be directly supervised by ESMA (under a mechanism similar to the current recognition framework).

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 h):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

i) EU benchmark users should be required to only use benchmarks that comply with the EU standards on a continuous basis. As a consequence, those users should be required to gather the necessary information to verify that the benchmark's methodology is consistent (on a continuous basis) with the EU standards, and for ceasing use of those benchmarks in case the labels are misused.

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.4 i):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

With [Regulation 2019/2089](#), the EU recently introduced a number of sustainability-related disclosures to benchmark administrators, especially for those benchmarks advertising ESG features. As mentioned in its [renewed sustainable finance strategy](#), the Commission is exploring the possibility to create an [EU ESG benchmark label](#), whose scope would simultaneously encompass environmental, social and governance pillars. This label would be an addition to the already existing climate-focused PAB and CTB labels, and would aim at bringing more clarity in the market for ESG benchmarks and further tackling “ESG-washing”.

Question 2.5 Do you believe that creating an EU ESG benchmark label would help enhance the quality of ESG benchmarks?

Would a context where a significant share of those benchmarks are administered in a third country influence your appraisal?

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.5:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2.6 Should such an EU ESG benchmark label be created, should this label be accessible to third country administrators?

- ☐ 1 - Do not agree at all
- ☐ 2 - Do not agree
- ☐ 3 - Neither agree nor disagree
- ☐ 4 - Somewhat agree
- ☐ 5 - Fully agree
- ☒ Don't know / no opinion / not applicable

Please explain your answer to question 2.6:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2022-benchmarks-third-country_en)

Consultation document (https://ec.europa.eu/info/files/2022-benchmarks-third-country-consultation-document_en)

More on benchmarks (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-markets/securities-markets/ensuring-integrity-securities-markets_en#benchmarks)

More on EU labels for benchmarks (climate, ESG) and benchmarks ESG disclosures (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-climate-benchmarks-and-benchmarks-esg-disclosures_en)

Specific privacy statement (https://ec.europa.eu/info/files/2022-benchmarks-third-country-specific-privacy-statement_en)

Contact

fisma-benchmark-review@ec.europa.eu

