

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

Rene

* Surname

LORENZ

* Email (this won't be published)

rene.lorenz@bdb.de

* Organisation name

255 character(s) maximum

German Banking Industry Committee

* 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.

52646912360-95

* 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 |

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

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

* 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

* 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

* My organisation is

- a credit institution**
(as defined in point (1) of Article 4(1) of [Regulation \(EU\) No 575/2013](#))
- an investment firm**
as defined in point (1) of Article 4(1) of [Directive 2014/65/EU](#)
- an insurance undertaking**
as defined in point (1) of Article 13 of [Directive 2009/138/EC](#)
- a reinsurance undertaking**
as defined in point (4) of Article 13 of [Directive 2009/138/EC](#)
- a UCITS or, where applicable, a UCITS management company**
as defined in Article 1(2) of [Directive 2009/65/EC](#)
- an alternative investment fund manager (AIFM)**
as defined in point (b) of Article 2(1) of [Directive 2009/65/EC](#)
- an institution for occupational retirement provision**
as defined in point (b) of Article 4(1) of [Directive 2011/61/EU](#)
- a creditor**
as defined in point (a) of Article 6 of [Directive 2003/41/EC](#)

- a non-credit institution**
 as defined in point (b) of Article 3 of [Directive 2008/48/EC](#) for the purposes of credit agreements as defined in point (c) of Article 3 of that Directive
- a market operator**
 as defined in point (10) of Article 4 of [Directive 2014/17/EU](#) for the purposes of credit agreements as defined in point (3) of Article 4 of that Directive
- a CCP**
 as defined in point (1) of Article 2 of [Regulation \(EU\) No 648/2012](#)
- a trade repository**
 as defined in point (2) of Article 2 of [Regulation \(EU\) No 648/2012](#)
- an administrator**
 as defined in point (6) of Article 2(1) of [Regulation 2016/1011](#)

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 supervised entities using benchmarks

Question 1.1 To what extent does your activity rely on benchmark administered by third country entities?

- 1 - Not at all
 - 2 - Some reliance
 - 3 - Moderate reliance
 - 4 - Strong reliance
 - 5 - Exclusive reliance
 - Don't know / no opinion / not applicable
-

Question 1.2 What is/are your organisation's reasons for using non-EU benchmarks?

- No particular reason
 - Established practice / established business relationship with benchmark administrator
 - No equivalent EU benchmark available
 - Equivalent EU benchmark available, but not cost free or more expensive
 - Other
 - Don't know / no opinion / not applicable
-

Question 1.3 Please provide a full list of all third country benchmarks your organisation uses as well as their administrators.

2000 character(s) maximum

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

The following list is not exhaustive. Please find a detailed list in the attachement.

ITRAXX

CDX

TR/Jefferies CRB Index ER – EXCESS RETURN

DAX - family

EuroStoxx - family

Dow Jones - family

ISRAEL TA 100

MSCI Euro SRI Sustainable Select

MSCI World SRI Sustainable Select

NASDAQ 100

NIKKEI 225 STOCK AVERAGE

PHILADELPHIA SE GOLD/SILVER

WM/Refinitiv FX benchmarks - family

AIG-EMFX Benchmark Index

AUD AONIA

AUD BBSW

AUD BBSY

BARCLAYS EU AGG CORP X SUB 1-5Y XBAA3 - RED. YIELD

BARCLAYS EUR CORP BONDS 1-5YR

BARCLAYS EURO AGG 1-3Y CORP. (E)

BARCLAYS EURO AGGREGATE (E)

BARCLAYS US C.CRP 1- 5Y XSUBXBAA3(E)H - RED. YIELD

BEID7T Index

CAD CDOR

CAD CORRA

CHF SARON

COLOMBIA CD RATE 90-DAY - MIDDLE RATE

eb rexx Government Germany 0-1 (TR)

ERINCDEM Index

EURIBOR Swap Rate

GBP SONIA

HKD HIBOR

IndONIA

JIBOR (Jakarta Interbank Offered Rate)

JPY TONA

JP Morgans MBS Bond Index

JPBXUSD Index

JPEIEPEU Index

JPEIGIEU Index

JPEMXCUS Index

JPM EMBI Global Div Hedged

JPM EMU IG GOVT ALL MATS (E) - TOT RETURN IND

JPM EMU IG GOVT ALL MATS EUR (JPMGEMUI)

JPM GBI GLOBAL ALL MATS. (E) - TOT RETURN IND

JPM GBI-EM BROAD DIV Composite(\$)- RED. YIELD

JPM GBI-EM DIVERS Composite (\$) - RED. YIELD

JPM JACI NON INV GRADE - MARKET VALUE (JACINGTR)

NOK NIBOR
NOK NOWA
NZD BILLS
NZD BKBM
SGD SOR
SGD SORA
SONIA Swap Rate (Spread Adjusted)
SOFR Swap Rate (Spread Adjusted)
SWISS SBI FOREIGN AAA-AA 1-5Y
Term SOFR
Term SONIA
USD LIBOR Swap Rate
USD SOFR
UBS CB ASIA EX JP HEDGED - TOT RETURN IND
UBS CB EUROPE INV. GRDE. HEDGED (E) - TOT RETURN IND
UBS CB GLOBAL FOCUS HEDGED (E) - TOT RETURN IND
UBS CB GLOBAL FOCUS INV.GRDE HDG (E) - TOT RETURN IND
UBS CB GLOBAL INV. GRDE. HEDGED (E) - TOT RETURN IND
UBS CB JAPAN INVEST (Y) - TOT RETURN IND
UBSW CB US INVEST (\$) - TOT RETURN IND

Question 1.4 Do you anticipate that all third country benchmarks that you might wish to use in offering financial services and products in the future (i.e., post 31 December 2023) will be either deemed equivalent, recognised or endorsed for use in the Union under the current BMR third country framework?

- Yes
- No
- Don't know / no opinion / not applicable

Please indicate the benchmarks that you might wish to reference but that will not be recognised or endorsed for use by supervised entities in the Union:

2000 character(s) maximum

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

Although the transparency of third country benchmark administrators regarding the activities on the registration of its benchmarks as well as the decision-making process by competent authorities (ESMA, NCAs and also including the European Commission) is relatively low, we expect major UK benchmark administrators to be either deemed equivalent, recognized or endorsed by the end of the transition period. Most of these administrators already comply with the requirements and had completed the registry process prior to Brexit. That said, we do not necessarily expect this to be the case for all relevant third country benchmarks (in particular for all FX spot fixings) in use. GBIC received a list of some third-country benchmarks by its members which should be possible to reference on, but these benchmarks will not be recognized or endorsed for usage by supervised entities in the EU.

ITRAXX

MSCI Euro SRI Sustainable Select

MSCI World SRI Sustainable Select

WM/Refinitiv FX benchmarks

HKD HIBOR

NZD BILLS

NZD BKBM

SGD SORA

SONIA Swap Rate (Spread Adjusted)

SOFR Swap Rate (Spread Adjusted)

CAD CDOR

GBP Term SONIA

NOK NIBOR

USD Term SOFR

Question 1.5 Do you believe that the current grandfathering provisions in the BMR, Article 51 paragraph 5, suffice to ensure that you have access to all indices that you need for managing your portfolio of financial products and services?

- Yes, they will suffice
- No, our activities will be affected by the entry into application of the BMR third country regime despite the grandfathering provisions
- Don't know / no opinion / not applicable

Please explain your answer to question 1.5:

2000 character(s) maximum

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

The grandfathering provisions only apply to transactions entered into prior to 31 December 2023. They therefore prevent action for existing transactions as long as they remain "untouched". However, the grandfathering provisions do not apply for hedging purposes which might occur during the lifetime of these trades after the end of the transition period or amendments. Moreover, adequate alternatives do not exist for all third country benchmarks or the costs and efforts to adopt these alternative rates are significant.

Question 1.6 To what degree have the benchmark administrators whose third country benchmarks you use already communicated on the conditions for the availability of these benchmarks beyond 31 December 2023, that is to say after the third country provisions start applying?

Among benchmark administrators that have communicated on such availability, how many indicated that their benchmarks will not be available, or are likely to be unavailable, beyond 31 December 2023?

- None
- Some
- Most
- All
- Don't know / no opinion / not applicable

Please explain your answer to question 1.6:

2000 character(s) maximum

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

We are not aware of any communication as to the detailed benchmark status beyond 31 December 2023, however some major administrators already published statements that they intend to take action (if necessary) to ensure that their benchmarks will continue to be available for use for EU supervised entities after the end of the transition period.

Question 1.7 In light of the answers above, 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 1.7, complementing it, 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.

Estimation would be slight to medium impact depending on how many and which benchmarks will not be available anymore. The expected impact is not quantifiable.

Question 1.8 Do you anticipate competitive disadvantages vis-à-vis competitors that are not supervised entities within the scope of the BMR if the third country “market access” rules for benchmarks enter into application without changes in 2024 at the latest?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 1.8:

2000 character(s) maximum

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

If EU supervised entities were not able to use international market standard benchmarks anymore (e.g. FX fixings included in ISDA FX and Currency Option definitions) this might well result in competitive disadvantages as alternative benchmarks, if existing, are not comparable in terms of liquidity and market acceptance.

Question 1.9 Do you / does your organisation use benchmarks advertising ESG features that are administered in a third country?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 1.9:

2000 character(s) maximum

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

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.

A functional third country regime is an integral aspect of the BMR and we are of the opinion that the current approach needs to be reviewed. The use of third country benchmarks is essential for the ability of EU companies to do business outside the EU. Derivatives to manage interest rate or currency risks are widely used by those engaged in exporting and are a fundamental tool to manage the risks of doing business abroad. Following the expiration of the transitional period set out in paragraph 5 of Article 51 of BMR, the use of benchmarks provided by a third country administrator other than a central bank will no longer be possible. Companies in the EU need to be able to continue their business activities abroad by using third country benchmarks. As a minimum, the transitional period should be extended to 31 December 2025 as proposed by the Council of the European Union in 2020. Furthermore, we would support a general removal of non-significant benchmarks from the scope of BMR to provide a level-playing field between those non-significant EU benchmarks and "non-strategic" non-EU benchmarks.

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.

We would 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.

Such a removal of third country "non-strategic" non-EU benchmarks from the scope of the BMR would provide continued competitive strength for EU supervised entities to use these benchmarks for their clients. Third country jurisdictions have mostly opted to regulate only the most critical benchmarks. As a result, EU customers and market participants are disadvantaged because such "non-strategic" non-EU benchmarks will become unavailable for EU supervised entities after the end of the transition period as they do not fulfil the BMR requirements.

In this context, the potential risk posed to the financial stability by these types of "non-strategic" non-EU benchmarks in the EU or in any Member State can be considered low.

In addition, the review of the benchmark compliance of a third country is a complex and time-consuming process. A practical approach that focuses attention is necessary. A concrete list of benchmarks that need to be actively managed should be supplied. Non "strategic" benchmarks do not concern the stability of the financial markets or consumer protection and therefore would not need to be regulated under EU law.

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 checked="" type="radio"/>	<input type="radio"/>	<input 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 checked="" type="radio"/>	<input 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Core activity of the administrator (bank, trading venue, asset manager, benchmark administrator, etc.)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Regulatory status of administrator in home jurisdiction	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU benchmark labels (including EU Paris Aligned Benchmarks and EU Climate Transition Benchmarks)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input 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.

The objective of BMR is to contribute to the proper functioning of the EU's internal market while achieving a high level of consumer and investor protection. From that perspective, the nominal amount/value of assets referenced by the benchmark in the EU would be the best criterion to identify whether a third country benchmark should be classified as "strategic". The notional amount/value of assets referenced by the benchmark in the EU determines the risk of how a third country benchmark could affect the financial stability of the EU financial market or the financial market of one or more EU members.

As the cessation or winding down of critical benchmarks like LIBOR or EONIA has shown, the substitutability of a benchmark may be an additional criterion. The existence of similar benchmarks administered in the EU or elsewhere could lower the potential risk to the financial stability connected with these benchmarks. An adequate volume of liquidity of the alternative benchmark is essential. Therefore niche-benchmarks are no adequate substitutes (e.g. a NZD-interest rate provided from within the EU will not be a suitable substitute, nor would a niche alternative to ITRAXX be one). Hence, such third country benchmark – without adequate substitute benchmark administered in the EU – should be classified as "strategic".

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.

Especially benchmarks with strategic importance should fall under the scope of the regulation, to guarantee a high quality of the benchmarks. The exclusion of non-strategic benchmarks would simplify processes without any significant impact on the quality of benchmarks.

Generally, the regulation of non-significant benchmarks is not well calibrated at all and non-significant benchmarks should be exempted especially in comparison to third country jurisdictions which have mostly opted to regulate only the most critical benchmarks. As a result, EU customers and market participants are disadvantaged because non-significant non-EU benchmarks will become unavailable for EU supervised entities after the end of the transition period as they do not fulfil the requirements. We, therefore, argue that the regulation should be recalibrated so that the EU legislation of non-significant benchmarks is equivalent to comparable third country jurisdictions.

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.

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.

We are of the opinion that where a benchmark is agreed by a foreign supervisor, no crosscheck to EU rules must be made by a user of that Benchmark in the EU.

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

49141a90-df8c-464c-b436-5dd6dbbe8608/2022-08-11_EU-COM_consultation_on_3rd-country-BM_GBIC_detailed_list_of_3rd-country-BM_in_use.pdf

Useful links

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

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

[More on benchmarks \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-markets/securities-markets/ensuring-integrity-securities-markets_en#benchmarks\)](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 \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-climate-benchmarks-and-benchmarks-esg-disclosures_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-climate-benchmarks-and-benchmarks-esg-disclosures_en)

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

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