



**Regulation (EU) 2016/1011**

# Benchmark Regulation

*These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union*

## The Legal Framework

- Regulation (EU) 2016/1011 - The Benchmark Regulation
- Published on 29 June 2016 in the Official Journal
- Applicable as of 1 January 2018 (transitional period, until 31 December 2019, recent agreement between Parliament and Council for an extension by two years for critical and third country benchmarks)
- Empowerments for Delegated acts / Regulatory Technical Standards / Implementing Technical Standards

# What is a Benchmark?



**Definition:** Benchmarks are indices created to weigh and aggregate multiple securities representing some aspect of the total investment market. Benchmarks are extensively used by institutional investors as investment monitoring solutions.

## Use cases for Benchmarks

### PERFORMANCE BENCHMARK

Used to **measure the performance** of a fund that can track the return of the index

### INVESTMENT UNIVERSE

Used to define the **investment universe** of a portfolio

### FINANCIAL INSTRUMENTS

Used as **underlying list of securities for passive products** (e.g. funds)

### INCENTIVE TOOL

Used as a **scalable way to encourage companies** to improve ESG performance

# Importance of benchmarks

Benchmarks have an indirect but important impact on investments.

Many asset managers and investors rely on them as investment monitoring solutions to track the return of such benchmarks (passive investment strategy) or to define the investment universe and to measure the performance of an investment fund/portfolio (active investment strategy).

# Scope of the Regulation

- **Administrators** *(having control over the provision of a benchmark)*
- **Contributors** *(contributing input data to an administrator for the purposes of determining a benchmark)*
- **Users**

# Exemptions

Listed in Article 3 of the Benchmark Regulation

Concerns in particular

- **Central banks**

And in certain circumstances

- **Public authorities and Central Counterparties**
- **Press, other media and journalists**

# Categories of benchmarks

- **Critical benchmarks** (Criteria laid down in article 20)
- **Significant benchmarks** (Criteria laid down in article 24)
- **Non-significant benchmarks** (a benchmark that does not fulfil the conditions in any of the articles above)

# Interest Rate Benchmarks

- Interest rate benchmarks are essential for the smooth functioning of the financial market and are widely used by banks and other market participants.
- Interest rate benchmarks are currently undergoing in-depth reforms.



# Alternative Reference Rates

- The European Central Bank, the European Securities and Markets Authority (ESMA), the Belgian financial supervisory authority (FSMA) and the European Commission convened in 2018 a private sector Working Group on euro risk-free rates (RFR WG) to select a preferred risk-free rate for the euro area and to plan transition to this new rate.
- September 2018 - the RFR WG selected €STR, an overnight unsecured rate that will be produced by the ECB by 2 October 2019, as the preferred successor to EONIA.

## Specific Regimes

- **Regulated data benchmarks:** (Equity/fixed income benchmarks)
- **Interest rate benchmarks** (Euribor, Eonia...)
- **Commodity benchmarks**

The European Parliament and the Council also recently reached a political agreement creating two new benchmarks:

The “EU Climate Transition” and the “EU Paris-aligned” benchmarks.

## Implementing and delegated acts

- The Benchmark Regulation empowers the Commission to adopt delegated and implementing acts to specify how competent authorities and market participants shall comply with the obligations laid down in the regulation.

## **Examples of Delegated and implementing acts adopted**

- Designation of benchmarks as critical (Euribor, Eonia, Stibor ...)
- Standards for Oversight function, integrity and accuracy of input data, Code of conduct, Content and update of benchmark statement ...
- Full list and acts available on Commission website

# Use of Third Country Benchmarks in the Union

Need to be included in the European Supervisory Market Authority ('ESMA') Register following:

- The adoption of an **equivalence decision** by the Commission
- **Recognition or endorsement** by a National Competent Authority

- Recent political agreement between Council and European Parliament
- Two-year extension of the transitional period for third country benchmarks.
- This means that third country benchmarks may continue to be used in the European Union without needing equivalence / endorsement / recognition until end 2021.

# Thank you for your attention

DG FISMA / Unit C3 securities markets

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