












# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation <p style="text-align: right;">2023/0379(COD)</p>	Awaiting Council's 1st reading position
Scope of rules for benchmarks, use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements <p>Amending Regulation 2016/1011 <a href="#">2013/0314(COD)</a></p>	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 2.80 Cooperation between administrations 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">Economic and Monetary Affairs</a>	 <a href="#">FERNÁNDEZ Jonás</a>	25/10/2023
		Shadow rapporteur	
		 <a href="#">VAIDERE Inese</a>	
		 <a href="#">BOYER Gilles</a>	
		 <a href="#">LAMBERTS Philippe</a>	
		 <a href="#">ROOKMAKER Dorien</a>	
		 <a href="#">PAPADIMOULIS Dimitrios</a>	
		Committee for opinion	Rapporteur for opinion
 <a href="#">Environment, Public Health and Food Safety</a>	The committee decided not to give an opinion.		
 <a href="#">Industry, Research and Energy</a>	The committee decided not to give an opinion.		
 <a href="#">Internal Market and Consumer Protection</a>	The committee decided not to give an opinion.		
 <a href="#">Legal Affairs</a>	The committee decided not to give an opinion.		

## Key events

17/10/2023	Legislative proposal published	<a href="#">COM(2023)0660</a>	Summary
11/12/2023	Committee referral announced in Parliament, 1st reading		
04/03/2024	Vote in committee, 1st reading		
07/03/2024	Committee report tabled for plenary, 1st reading	<a href="#">A9-0076/2024</a>	Summary
24/04/2024	Decision by Parliament, 1st reading	<a href="#">T9-0357/2024</a>	

## Technical information

Procedure reference	2023/0379(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2016/1011 <a href="#">2013/0314(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a>
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	ECON/9/13484

## Documentation gateway

Legislative proposal	<a href="#">COM(2023)0660</a>	17/10/2023	EC	Summary
Committee draft report	<a href="#">PE757.977</a>	11/01/2024	EP	
Amendments tabled in committee	<a href="#">PE758.780</a>	01/02/2024	EP	
Economic and Social Committee: opinion, report	<a href="#">CES5424/2023</a>	14/02/2024	ESC	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A9-0076/2024</a>	07/03/2024	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T9-0357/2024</a>	24/04/2024	EP	

Scope of rules for benchmarks, use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements

PURPOSE: to streamline the rules for benchmarks and certain reporting requirements.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: this proposal is part of a package of measures to rationalise reporting requirements. It aims to rationalise authorisation and registration and alleviate the burden on EU companies, in particular small and medium-sized enterprises (SMEs). The regulatory framework that applies to these companies is layered. Different rules and reporting requirements apply depending on the type of benchmark they provide.

Regulation (EU) 2016/1011 (the Benchmark Regulation or the BMR) aims to address concerns about the accuracy and integrity of benchmarks regardless of the size and systemic nature of such benchmarks. Under that Regulation, all administrators of benchmarks, regardless of the systemic relevance of those benchmarks or of the amount of financial instruments or contracts that use those benchmarks as reference rates or as performance benchmarks, are to comply with several very detailed requirements, including requirements on their organisation, on the governance and conflicts of interest, on oversight functions, on input data, on codes of conduct, on reporting of infringements, and on methodological and benchmark statement disclosures. Those very detailed requirements have put a disproportionate regulatory burden on administrators of smaller benchmarks in the Union considering the aims of Regulation (EU) 2016/1011, that is to safeguard financial stability and to avoid negative economic consequences that result from the unreliability of benchmarks, it is therefore necessary to reduce that regulatory burden by focusing on those benchmarks with the greatest economic relevance for the Union market, i.e. significant and critical benchmarks, and on those benchmarks that contribute to the promotion of key Union policies, i.e. EU Climate Transition and EU Paris-aligned Benchmarks.

CONTENT: this proposal seeks to review the scope of the Benchmark Regulation and address its shortcomings, as well as bring targeted improvements to how it functions.

#### Main amendments to the Benchmark Regulation

The proposal defines the type of benchmarks to which specific Titles in Regulation (EU) 2016/1011 apply. These are critical benchmarks, significant benchmarks, EU Paris-aligned Benchmarks and EU Climate Transition Benchmarks. Administrators of benchmarks that are not considered critical. Non-significant benchmarks are therefore no longer required to apply the requirements under Titles II (Benchmark integrity and reliability), III (Requirement for different types of benchmarks), IV (Transparency and consumer protection) and VI (Authorisation, Registration and Supervision of Administrators).

The definition of what constitutes a significant benchmark is amended.

#### EU Paris-aligned Benchmarks and EU Climate Transition Benchmarks

A new paragraph is added to safeguard the integrity of the label and provide for effective supervision. The administrators of EU Paris-aligned Benchmark or EU Climate Transition Benchmarks remain in scope of the BMR, irrespective of their significance, subject to them obtaining authorisation or registration in the EU.

#### Significant benchmarks

The proposal lays down measures concerning the determination of whether a benchmark is significant on the basis of a simple numerical threshold: whether such benchmarks are used as a reference for assets whose cumulative value exceeds EUR 50 billion.

It also sets out the obligation, incumbent on all administrators of benchmarks used by supervised entities in the EU, to notify the Commission when one or several of the benchmarks they administer exceeds a usage threshold of EUR 50 billion. This obligation applies to an administrator located in the Union and to an administrator located in a third country.

A national competent authority may also issue a decision stating that a benchmark, whose usage within the EU does not exceed EUR 50 billion meets the qualitative conditions for significance, with respect to its Member State. Such designations should remain limited and should be motivated in a reasoned decision from the competent authority, setting out in clear terms the reasons why a benchmark is significant.

The competent authorities should publish designation decisions, and ESMA should compile all designation decisions issued by them. This allows users to easily verify the designation status of benchmarks they intend to use. Supervised entities should be obliged to regularly consult these sources to check the designation status of any benchmarks they intend to use.

A parallel system for the designation of non-EU benchmarks as significant in accordance with qualitative criteria is laid down. The responsibility is conferred in this case to ESMA, acting upon the request of one or more competent authorities. The qualitative criteria are similar to those for the designation of EU benchmarks, as are the measures to ensure the transparency of designations.

## Scope of rules for benchmarks, use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements

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The Committee on Economic and Monetary Affairs adopted the report by Jonás FERNÁNDEZ (S&D, ES) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

#### Requirements for administrators of significant benchmarks

The report noted that in order to ensure that benchmark administrators have sufficient time to adapt to the requirements that apply to significant benchmarks, they should only be subject to those requirements as from 60 working days from the day they submitted such a notification. In addition, benchmark administrators should provide the competent authorities concerned or ESMA, upon request, with all information necessary to assess that benchmarks aggregate use in the Union.

#### Competent authorities

The amended text clarified that ESMA should be the competent authority for:

- administrators of critical benchmarks;
- administrators of the benchmarks;
- administrators of the benchmarks that are significant within the Union;
- administrators endorsing benchmarks provided in a third country;
- administrators of EU Climate Transition Benchmarks and EU Paris Aligned Benchmarks.

#### Review

It is appropriate that by 31 December 2028 the Commission presents a report, on the basis of input from ESMA, assessing the availability of ESG benchmarks in European and global markets and their market up-take, analysing whether they would be considered significant benchmarks, and studying the costs and effects on market availability and the evolving nature of the sustainable indicators and the methods used to measure them.

Furthermore, it should assess the need to regulate benchmarks making ESG-related claims, with the aim to maintain an adequate level of protection of users of those benchmarks as well as a high level of transparency, reduce the risk of greenwashing and ensure coherence with other EU legislation on sustainable disclosure requirements. That report should be accompanied by an impact assessment and, where appropriate, a legislative proposal.

#### Transitional provisions

To ensure a seamless transition to the application of the rules introduced under this Regulation administrators previously supervised under Regulation (EU) 2019/2089 should keep existing registrations, authorisations, recognitions or endorsements for nine months after the entry into application of this amending Regulation. That period is intended to give competent authorities and ESMA sufficient time to decide whether any of the previously supervised administrators should be designated in accordance with this amending Regulation. If designated, administrators previously authorised, registered, endorsed or recognised or administrators who voluntarily opt-in to this Regulation, should be allowed to retain their previous status without the need to re-apply. Administrators of significant benchmarks should, in any case, be allowed to retain their status as authorised, registered, endorsed or recognised benchmark administrators.

Transparency				
ROOKMAKER Dorien	Shadow rapporteur	ECON	10/04/2024	Intercontinental Exchange, Inc.
ROOKMAKER Dorien	Shadow rapporteur	ECON	09/04/2024	S&P Global
FERNÁNDEZ Jonás	Rapporteur	ECON	12/02/2024	General Index Ltd.
FERNÁNDEZ Jonás	Rapporteur	ECON	31/01/2024	NASDAQ
BOYER Gilles	Shadow rapporteur	ECON	24/01/2024	European Fund and Asset Management Association
BOYER Gilles	Shadow rapporteur	ECON	24/01/2024	Deutsche Börse AG
FERNÁNDEZ Jonás	Rapporteur	ECON	23/01/2024	UNESPA
FERNÁNDEZ Jonás	Rapporteur	ECON	23/01/2024	Deutsche Börse AG
BOYER Gilles	Shadow rapporteur	ECON	22/01/2024	Federation of European Securities Exchanges
BOYER Gilles	Shadow rapporteur	ECON	22/01/2024	Euronext
FERBER Markus	Member	23/02/2024	ISDA	