

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](#)

Questions specific to benchmark administrators

Question 1.1 To what extent do you, in your provision of benchmarks in the EU, experience competition from benchmarks administered outside the EU?

- 1 - No competition
- 2 - Some competition
- 3 - Moderate competition
- 4 - Strong competition
- 5 - Very strong competition
- Don't know / no opinion / not applicable

Please explain your answer to question 1, ideally including the list of benchmarks or family of benchmarks that overlap and, if possible, providing an estimation of your benchmark offering which overlaps with benchmarks administered outside the EU:

2000 character(s) maximum

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

Question 1.1 Is your organisation planning to change its status under BMR in light of the entry into application of the rules for third country benchmarks as they currently stand?

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

Please explain your answer to question 1.1:

2000 character(s) maximum

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

Question 1.2 How significant is the provision of benchmarks in the EU, as a proportion of your revenue derived from the provision of benchmarks worldwide?

- 0-20%
- 21-40%
- 41-60%
- 61-80%
- 81-100%
- Prefer not to say
- Don't know / no opinion / not applicable

Please explain your answer to question 1.2:

2000 character(s) maximum

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

Question 1.3 To the extent possible, provide the aggregate notional amounts /values (unit: EUR 1,000) (or an estimate thereof) for the use of your organisation’s third country benchmarks in the Union in each of the following settings .

If the breakdown is not available, please provide the total value:

	Foreign exchange	Interest rate	Equity commodity	Other (please specify)	Total
Issuance of a financial instrument which references an index or a combination of indices					
Determination of the amount payable under a financial instrument or a financial contract by referencing an index or a combination of indices					

<p>Being a party to a financial contract which references an index or a combination of indices</p>					
<p>Providing a borrowing rate as defined in point (j) of Article 3 of Directive 2008/48/EC calculated as a spread or mark-up over an index or a combination of indices and that is solely used as a reference in a financial contract to which the creditor is a party</p>					

Measuring the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio, or of computing the performance fees					
Other (please specify)					
Total					

Question 1.4 Please provide a list of all your benchmarks or family of benchmarks for which you are aware that they are used by EU supervised entities .

Alternatively, please provide the number of such benchmarks:

2000 character(s) maximum

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

Question 1.5 Please provide an estimation of the costs incurred to seek compliance with the BMR's third country regime, that is to say to become a third country administrator active in the EU under recognition, endorsement or equivalence:

2000 character(s) maximum

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

Question 1.5 Have overall compliance costs – including additional one-off and ongoing supervisory/registration fees incurred in the EU – acted as a deterrent for you to seek (or not to seek) compliance with the BMR, or slowed down the process towards compliance with the current third country regime?

No, compliance costs (including supervisory/registration fees) did not influence our decision to seek (or not to seek) compliance with the BMR third country regime

- Yes, compliance costs (including supervisory/registration fees) have slowed down our decision to seek compliance with the BMR third country regime
- Yes, compliance costs (including supervisory/registration fees) have forced us to renounce to our project to seek compliance with the BMR third country regime
- Don't know / no opinion / not applicable

Please explain your answer to question 1.5, distinguishing if relevant operational/organisational costs and financial costs such as supervisory /registration fees:

2000 character(s) maximum

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

Question 1.6 If you have already started taking measures to seek compliance with the current third country regime, anticipating its application as of 31 December 2023, please provide an estimation of the costs incurred by such measures:

2000 character(s) maximum

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

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 1.1.1 If available, please provide notional amounts/values (unit: EUR 1,000) (or an estimate thereof) for your organisation's use of third country benchmarks in each of the following settings.

If the breakdown is not available, please provide the total value:

	Foreign exchange	Interest rate	Equity commodity	Other (please specify)	Total
Issuance of a financial instrument which references an index or a combination of indices					
Determination of the amount payable under a financial instrument or a financial contract by referencing an index or a combination of indices					

Being a party to a financial contract which references an index or a combination of indices					
Providing a borrowing rate as defined in point (j) of Article 3 of Directive 2008/48/EC calculated as a spread or mark-up over an index or a combination of indices and that is solely used as a reference in a financial contract to which the creditor is a party					

Measuring the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio, or of computing the performance fees					
Other (please specify)					
Total					

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

Please specify to what other reason(s) you refer in your answer to question 1.2:

2000 character(s) maximum

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

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.

We provide a list of different third-country benchmarks in use. The following list represents only the most used third-country benchmarks and is non-exhaustive..

Typ	Benchmark	Administrator
Credit	ITRAXX	IHS Markit
Credit	CDX	IHS Markit
Equity	DAX - family	STOXX Ltd.
Equity	EuroStoxx - family	STOXX Ltd.
Equity	Dow Jones - family	S&P Dow Jones Indices LLC
Equity	MSCI Euro SRI Sustainable Select	MSCI
Equity	MSCI World SRI Sustainable Select	MSCI

FX	WM/Refinitiv FX benchmarks - family	Refinitiv
Zins	AUD AONIA	Reserve Bank of Australia (RBA)
Zins	AUD BBSW	Australian Securities Exchange (ASX)
Zins	AUD BBSY	Australian Securities Exchange (ASX)
Zins	CAD CDOR	Refinitiv Benchmarks Services (UK) Limited ('RBSL')
Zins	CAD CORRA	Bank of Canada
Zins	CHF SARON	SIX
Zins	GBP SONIA	BOE
Zins	HKD HIBOR	<u>Hong Kong Association of Banks (HKAB)</u>
Zins	JPY TONA	BOJ
Zins	NOK NIBOR	Norske Finansielle Referanser (NoRe)
Zins	NZD BILLS	<u>New Zealand Financial Markets Association</u>
		NEW ZEALAND FINANCIAL BENCHMARK FACILITY LIMITED
Zins	NZD BKBM	ABS Benchmarks Administration Co Pte Ltd
Zins	SGD SOR	MAS
Zins	SGD SORA	CME
Zins	Term SOFR	ICE
Zins	Term SONIA	FED
Zins	USD SOFR	ICE
Zins	SONIA Swap Rate (Spread Adjusted)	ICE
Zins	SOFR Swap Rate (Spread Adjusted)	ICE
Zins	USD LIBOR Swap Rate	ICE
Zins	EURIBOR Swap Rate	ICE

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 explain your answer to question 1.4:

2000 character(s) maximum

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

The transparency of third-country benchmark administrators regarding activities on the registration of benchmarks as well as the decision-making process by competent authorities (ESMA, NCAs and also the European Commission) is low. However, major UK benchmark administrators should likely 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 the UK leaving the EU. That said, this will not necessarily be the case for all relevant third-country benchmarks (in particular for all FX spot fixings) in use.

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.

We provide a list of third-country benchmarks 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 if 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.

There has not been any communication as to the detailed benchmark status beyond 31 December 2023, however some major admins already published statements that they intend to act (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.

Question 1.9.1 What is your estimation of the share of those ESG benchmarks you use that are administered in a third country?

2000 character(s) maximum

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

Questions specific to end-users of 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 For what purpose do you use (as an end-user) third country benchmarks?

- Investment
- Hedging
- Portfolio management
- Other
- Don't know / no opinion / not applicable

Please specify to what other purpose(s) you refer in your answer to question

1.2:

2000 character(s) maximum

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

Question 1.2.1 If available, please provide notional amounts/values (unit: EUR 1,000) for your organisation’s end-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					

Question 1.3 What is/are the reasons for using non-EU benchmarks?

- No particular reason
- Habit / 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

Please specify to what other reason(s) you refer in your answer to question

1.3:

2000 character(s) maximum

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

Question 1.4 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.

Question 1.5 In your organisation's end-use of third country benchmarks, on which counterparties / service providers (benchmark users) do you rely?

- 1 - Exclusively on EU entities
- 2 - Mainly on EU entities
- 3 - More or less equally on EU and non-EU entities
-

- 4 - Mainly on non-EU entities
 - 5 - Exclusively on non-EU entities
 - Don't know / no opinion / not applicable
-

Question 1.6 When the rules for third country benchmarks enter into application, your service provider might lose the right to offer new contracts referencing some third country benchmarks you currently use as an end-user.

How would you react?

- We would stand ready to reach out to non-EU service providers that still have access to those benchmarks, in order to continue to use the same third country benchmarks, even if that implies higher costs
- We already resort to non-EU service providers, so we would not be affected and would continue to use the same benchmarks via the same non-EU service providers
- We would seek alternative, EU-based benchmarks that can be referenced by EU service providers
- We would stop using benchmarks for this purpose: if those third country benchmarks did not meet the requirements for equivalence, recognition or endorsement, it means that they are not safe and we prefer not to use them
- 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.

Question 1.7 Taking into account the answers above, how significant do you estimate the impact on your activities would be of the entry into application of the rules on third country benchmarks in the BMR?

- 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:

2000 character(s) maximum

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

Question 1.8 Are you / is your organisation an end-user of 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 1.8:

2000 character(s) maximum

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

Question 1.8.1 What is your estimation of the share of those ESG benchmarks you use that are administered in a third country?

2000 character(s) maximum

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

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 x**
- 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.

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 export and are a fundamental tool to manage the risks of doing business abroad.

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 X
- 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 but 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 export and are a fundamental tool to manage the risks of doing business abroad. Following the expiration of the transitional period set out in Article 51(5) 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 EU in 2020. Furthermore, 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 should be supported.

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 X

- 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.

It would be preferable to have a framework under which only certain third-country benchmarks deemed 'strategic' 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 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 by 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 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"/> X
Type of user (investment fund, credit institution, CCP, trade repository, etc.)	<input type="radio"/>	<input checked="" type="radio"/> X	<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"/> X	<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"/> X	<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"/> X
Substitutability of the benchmark (i.e. existence of a similar benchmark administered in the EU)	<input type="radio"/>	<input checked="" type="radio"/> X	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU benchmark labels (including EU Paris Aligned Benchmarks)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/> X	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

and EU Climate Transition Benchmarks)						
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/> X

Please specify to what other criterion you refer in 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.

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 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 X
- 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 X
- 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 X

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 X
- 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 BMR, to guarantee a high quality of the benchmarks. The exclusion of non-strategic benchmarks would simplify processes without a significant impact on the quality of benchmarks.

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

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 X

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 X

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 X
- 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.

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 X

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 X

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

