

03 June 2025

Circular on the Amendments to the Benchmarks Regulation

1.0 Introduction

On 19 May 2025, Regulation (EU) 2025/914 of the European Parliament and of the Council of 7 May 2025 (the 'Regulation') 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, was published within the Official Journal of the EU.

The Regulation aims to reduce red tape for EU companies, particularly SMEs. The amendments being introduced by the Regulation shall apply from the date of its entry into force, i.e., 01 January 2026.

With the aim of fostering continued compliance with the relevant requirements, the Authority is bringing these amendments to the attention of all the relevant stakeholders, namely the entities falling within scope of the Benchmark Regulation.

2.0 Amendments to the Benchmarks Regulation

Article 2: Scope

- Paragraph 1a has been added to specify that Titles II, III excluding Articles 23a, 23b and 23c, IV, V and VI apply only in respect of Critical Benchmarks, Significant Benchmarks, EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks.
- Paragraph 1b has been added to specify that Article 13(1) point (d) and Article 27(2aa) apply to all benchmarks used in the Union provided by administrators that are included in the register as per Article 36 or belong to a group with at least one administrator included in the register as per Article 36.
- Paragraph 1(c) has been also added to specify that Article 19 applies to any commodity benchmark based on contributed input data, unless it is a regulated-data benchmark, or it is a benchmark based on submissions by contributors the majority of which are supervised entities or it is a critical benchmark and the underlying asset is gold, silver or platinum.
- Paragraph 2(g) has been amended in order to change the conditions required for a commodity benchmark not to be in scope of the Benchmarks Regulation.

Article 3: Definitions

- Article 3 point 17(m) has been amended to include reference to Article 34 of the Benchmarks Regulation.
- Point 24(a)(ii) and 24(a)(iii) has been amended to change the reference from Directive 2014/65/EU to Regulation (EU) No 600/2014.
- The Definition of Non-Significant Benchmarks (point (27)) is deleted.

Article 13: Transparency of Methodology

- Article 13 paragraph 1(d) was amended to specify that where a benchmark or family of benchmarks includes in its legal or marketing documentation any reference to the consideration of ESG factors, an explanation for each of those benchmarks or family of benchmarks, with the exception of interest rate and foreign exchange benchmarks, of how the key elements of the methodology reflect ESG factors.
- The second subparagraph of paragraph 1 of Article 13 is deleted.

Article 18: Interest Rate Benchmarks

- References to Article 24 and 26 have been removed from the second paragraph of Article 18, which lays down the articles which do not apply to the provision of, and contribution to interest rate benchmarks.

Title III, Chapter 3: Commodity Benchmarks Based on Contributed Input Data

- In Title III, the subtitles of Chapter 3 and Article 19 are replaced by 'Commodity Benchmarks based on contributed input data'.
- A paragraph is added in Article 19 to specify that commodity benchmarks based on contributed input data shall comply with Article 10, Titles IV, V and VI, and the specific requirements set out in Annex II.

Article 19a: EU Climate Transition Benchmarks and EU Paris-Aligned Benchmarks

- Paragraph 4 is added to specify that Administrators that are not included in the register referred to Article 36 shall not provide or endorse EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks, and indicate or suggest in the name of the benchmarks they make available for use in the union or in the legal or marketing documentation for those benchmarks, that the benchmarks they make available comply with the requirements applicable to the provision of EU Climate Transition Benchmarks or EU Paris-Aligned Benchmarks.
- Paragraph 5 is also added in Article 19a to Specify that Administrators shall include the acronym "CTB" in the name of EU Climate Transition Benchmarks and the acronym "PAB" in the name of EU Paris-Aligned Benchmarks.

Article 24: Significant Benchmarks

- Article 24 paragraph 1 is amended by changing the conditions required for a benchmark to be considered as significant. The following are the amended conditions, where fulfilment of either of the conditions would render the benchmark significant:
 - (a) A benchmark is used directly or indirectly within a combination of benchmarks within the Union as a reference for financial instruments or financial contracts or for measuring the performance of investment funds that have a total average value of at least EUR 50 billion on the basis of the following characteristics of the benchmark, over a period of 6 months:
 - (i) The range of maturities or tenors of the benchmark, where applicable;
 - (ii) All the currencies or other units of measurement of the benchmark, where applicable; and
 - (iii) All the return calculation methodologies, where applicable;
 - (b) The benchmark has been designated as significant in accordance with the procedure laid down in paragraphs 3, 4 and 5, the procedure laid down in paragraph 6, or the procedure laid down in paragraph 7.
- Paragraph 2 is added to specify that an administrator shall immediately notify the competent authority of the member state where it is located or, if located in a third country, ESMA, when one or more of that administrator's benchmarks reach the threshold as amended to in paragraph 1 point (a). Within Paragraph 2 it is further specified that upon request of the competent authority, or ESMA if administrator is located in a third country, administrators shall provide that competent authority or ESMA with information as to whether the threshold referred to in paragraph 1, point (a) has been reached.

Where a competent authority or ESMA has clear and demonstrable grounds to consider that a benchmark reached the threshold referred to in paragraph 1, point (a), the competent authority or ESMA may issue a notice to that effect. Such a notice shall trigger the same obligations for the benchmark administrator as the notification referred to in the first subparagraph of this paragraph. At least 10 working days before issuing such a notice, the competent authority or ESMA, as applicable, shall inform the administrator of the benchmark concerned of its findings, and invite that administrator to submit any observations.

- Paragraph 3 is added to specify that a competent authority may, after having consulted ESMA in accordance with paragraph 4 and having taken into account its advice, designate a benchmark provided an administrator located in the Union that does not reach the threshold referred to in paragraph 1, point (a) as significant where the benchmark fulfils the conditions laid down within the same.

Where a competent authority concludes that a benchmark fulfils the conditions set out in the first subparagraph of paragraph 3, the competent authority shall prepare a draft decision to designate the benchmark as significant and notify that draft decision to the administrator concerned and, where relevant, to the competent authority of the Member State where the administrator is located. The designating competent authority shall also consult ESMA on the draft decision.

The administrator shall have 15 working days from the date of notification of the draft decision of the designated competent authority to provide observations in writing.

- Paragraph 8 is also added to specify that where a benchmark provided by an administrator located in the Union that does not fulfil the condition laid down in paragraph 1, point (a) and fulfils the conditions laid down in paragraph 7 wishes to have the designation lifted, it shall address a written request to that effect to its competent authority at the earliest 4 years from the date when the benchmark was designated.

Article 24a: Requirements for Administrators of Significant benchmarks

- Article 24a paragraph 1 is added to specify that administrators fulfilling the condition referred to in Article 24(1), point (a), shall seek authorisation or registration with the competent authority of the member state where it is located within 60 working days of the notification referred to in Article 24(2). Where that administrator is located in a third country and unless the benchmark is covered by an equivalence decision adopted pursuant to Article 30, the administrator shall, within 60 working days, seek either recognition with ESMA pursuant to Article 32 or endorsement pursuant to Article 33.
- Article 24 paragraph 2 is added to specify that unless an administrator is already authorised or registered, within 60 working days of a designation as referred to in Article 24(3), the administrator shall seek authorisation or registration with the competent authority of the member state where it is located in accordance with Article 34.
- Article 24 paragraph 3 is added to specify that unless the benchmark is covered by an equivalence decision adopted pursuant to Article 30, within 60 working days of a designation as referred to in Article 24(6), the administrator shall seek either recognition with ESMA pursuant to Article 32 or endorsement pursuant to Article 33.
- Article 24 paragraph 4 is added to specify that unless the administrator is already authorised or registered, within 60 working days of a designation as referred to in Article 24(7), the administrator shall seek authorisation or registration with the designated competent authority pursuant to Article 34.

Article 25: Exemptions from Specific Requirements for Significant Benchmarks

- Paragraph 10 is added to specify that Article 25 does not apply to commodity benchmarks.

Title III, Chapter 6: Non-Significant Benchmarks

- This chapter is deleted.

Article 27: Benchmark Statement

- Paragraph 2a is amended to include disclosure requirements within the benchmark statements for significant equity and bond benchmarks, as well as for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.
- Paragraph 2aa is added to specify that where a benchmark or family of benchmarks includes in its legal or marketing documentation any reference to the consideration of ESG factors, the administrator is required to publish an explanation of how ESG factors are reflected for each of the elements referred to in paragraph 2.

Article 28: Changes to and Cessation of a Benchmark

- Paragraph 2 is amended to specify that supervised entities shall, upon request and without undue delay, provide the relevant competent authority with the plans setting out the actions that they would take in the event that a benchmark materially changes or ceases to be provided and any updates thereto, and shall reflect them in fallback provisions applicable to financial contracts, financial instruments and investment funds.
- The title of Article 29 is changed to 'Use of Critical Benchmarks, Significant Benchmarks, Commodity Benchmarks Subject to Annex II, Eu Climate Transition Benchmarks and EU Paris-Aligned Benchmarks'.
- Article 29 paragraph 1 is amended to specify that supervised entities shall not add new references to significant benchmarks, critical benchmarks, commodity benchmarks, EU Climate Transition Benchmark, EU Paris-Aligned Benchmark or a combination of Benchmarks. Supervised entities shall regularly consult ESAP or the register referred to Article 36 to verify the regulatory status of the administrators they intend to use.
- Article 29 paragraph 1b is added to specify that a supervised entity subject to a public notice shall replace that benchmark with an appropriate alternative within 6 months of the publication of that notice, or issue and publish a statement on its website.
- Article 29 paragraph 2 is amended to include reference to Regulation (EU) 2017/1129 (Prospectus Regulation) instead of Directive 2003/71/EC, and to include reference to a critical benchmark, a significant benchmark, a commodity benchmark, an EU Climate Transition Benchmark or an EU Paris Aligned Benchmark.

Article 32: Recognition of an Administrator Located in a Third Country

- Paragraph 1 is deleted.
- Paragraph 2 is amended by specifying that a significant benchmark of an EU Paris-Aligned Benchmark, of an EU Climate Transition Benchmark or Commodity Benchmark

subject to Annex II located in a third country that intends to obtain recognition shall comply with this Regulation with the exception of Article 11(4) and Articles 16, 20, 21 and 23. The administrator may fulfil that condition by applying the IOSCO principles for financial benchmarks or the IOSCO principles for PRAs, as applicable, provided that such application is equivalent to compliance with this Regulation, with the exception of Article 11(4) and Articles 16, 20, 21 and 23.

- Paragraph 3 is amended to specify that ESMA may impose a supervisory measure in accordance with Article 48e, or a fine in accordance with Article 48f, on the administrator or on the legal representative for an infringement listed in Article 42(1), point (a), or in relation to any failure to cooperate or comply in an investigation or with an inspection or request covered by Section 1 of Chapter 4, as applicable.
- In paragraph 5 the first subparagraph is amended to highlight that an administrator located in a third country intending to obtain recognition shall apply for recognition with ESMA and shall provide all information necessary to satisfy ESMA that it has established all the necessary arrangements to meet requirements laid down in paragraph 2 with respect to any of its benchmarks that are significant, that are EU Paris-Aligned Benchmarks or EU Climate Transition Benchmarks, or that are Commodity Benchmarks subject to Annex II.

Article 33: Endorsement of Benchmarks Provided in a Third Country

- Paragraph 1 is amended to highlight that an administrator located in the Union and authorised or registered as per Article 34, with a clear and well-defined role under the control or accountability framework of an administrator located in a third country, may apply to ESMA rather than the relevant competent authority to endorse a benchmark or a family of benchmarks provided in a third country for their use in the Union.
- Paragraph 2 is amended to specify that an administrator that submits application for endorsement shall provide all information to ESMA rather than the relevant competent authority.
- Reference to other supervised entity has been removed from paragraph 4 of Article 33, hence now an endorsed benchmark or an endorsed family of benchmarks shall be considered to be a benchmark or family of benchmarks provided by the endorsing administrator only.
- Reference to other supervised entity has also been removed from paragraph 5 of Article 33

Article 34: Authorisation and Registration of an Administrator

- Paragraph 1 is amended to highlight that a natural or legal person located in the Union that acts or intends to act as an administrator shall apply to the competent authority or ESMA in order to receive;

- (a) authorisation where it provides or intends to provide indices which are used or intended to be used as Critical Benchmarks, Significant Benchmarks, Commodity Benchmarks, EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks;
 - (b) registration where it is a supervised entity, other than an administrator, that provides or intends to provide indices which are used or intended to be used as significant benchmarks, EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks, provided that the activity of provision of a benchmark is not prevented by the sectoral discipline applying to the supervised entity and that none of the indices provided would qualify as a critical benchmark.
- Paragraph 1a is also amended to specify that if a person at the same time submits an application to ESMA pursuant to 33(1) to endorse a benchmark or a family of benchmarks, the application shall be addressed to ESMA.

3.0 Contacts

Should you have any queries, kindly contact the Authority on Benchmarks@mfsa.mt.