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Feedback on the draft technical advice on minimum requirements for the EU climate-transition benchmarks and the EU Paris-aligned benchmarks and benchmarks' ESG disclosures

Fields marked with * are mandatory.

Introduction

Disclaimer

This call for feedback is part of Directorate-General for Financial Stability, Financial Services and Capital Markets Union, Directorate-General for Environment, Directorate-General for Climate action and Directorate-General for Energy ongoing work on sustainable finance, for which the European Commission has set up a dedicated technical expert group (TEG).

This feedback process is neither an official Commission document nor an official Commission position. Nothing in this feedback process commits the Commission nor does it preclude any potential policy outcomes.

In 2018 the European Commission (EC) published its action plan on financing sustainable growth (action plan). In action 5 of the action plan, the European Commission commits to put forward, subject to the outcome of its impact assessment, an initiative for harmonising benchmarks comprising low-carbon issuers, based on a sound methodology to calculate their carbon impact. On 24 May 2018 the Commission published its proposal for a Regulation on 'low carbon' and 'carbon positive' benchmarks amending the benchmark regulation (Regulation (EU) 2016/1011).

On 25 February 2019, the European Parliament and the Council reached a political agreement on the creation of two new categories of benchmarks, the 'EU climate transition benchmark' and the 'EU Paris-aligned benchmark'. The establishment of EU climate transition and EU Paris-aligned benchmarks, underpinned by a methodology linked to commitments regarding carbon emission of the Paris Climate Agreement, would contribute to better transparency and help prevent greenwashing. The two new categories of benchmarks are voluntary labels designed to support investors who wish to adopt a climate-conscious investment strategy in choosing an appropriate benchmark.

The amending Regulation requires the European Commission to adopt delegated acts laying down minimum standards as to the methodology of 'EU climate transition' and 'EU Paris-aligned' benchmarks; and minimum content of disclosure explaining how the benchmark methodologies of all benchmarks (with the exception of currency and interest rate benchmarks) reflect ESG factors.

The TEG received a mandate from the European Commission to assist it in the development of the above-mentioned delegated acts.

The TEG is publishing its interim report, subject to the call for feedback.

Section 3 details the technical advice on minimum ESG disclosure requirements to improve transparency and comparability of information across benchmarks.

Section 4 and section 5 include the technical advice on the minimum requirements for the two climate benchmarks.

For the purposes of this call for feedback, **'CTB' means climate-transition benchmark** and **'PAB' means Paris-aligned benchmarks**.

Following the call for feedback and taking into account the feedback received, the TEG will publish a final version of the report by the end of September 2019. The Commission reserves the right to revise and/or supplement this report. The advice received should not prejudge the Commission's final policy decision and the content of the future delegated acts.

Financial market participants are invited to give their feedback on the key elements of this interim report as flagged in the below.

The deadline for providing feedback is 2 August 2019 cob.

Please note: In order to ensure a fair and transparent feedback 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 ec-teg-sf@ec.europa.eu.

Useful documents and links:

- More on EU climate benchmarks and benchmarks' ESG disclosures
- Interim report
- Summary of the interim report
- Call for feedback document

- [Specific privacy statement]

1. Information about you and your organisation

* Are you replying as a(n):

- ◯ index provider
- ◯ institutional investor/ asset owner
- ◯ public sector issuer/ borrower (sovereigns, regions, municipalities, government backed entities)
- ◯ multilateral or bilateral financial institution, government backed agency or development bank
- ◯ corporate issuer/borrower
- ◯ financial institution acting as issuer/borrower
- ◯ financial institution acting as intermediary
- ◯ financial institution acting as lender
- ◉ NGO
- ◯ sustainability consultancy
- ◯ credit rating agency
- ◯ auditing/assurance firm
- ◯ academic
- ◯ stock exchange
- ◯ other

* Name of your organisation:

BETTER FINANCE -Federation of investors and financial services users

* Contact email address:

The information you provide here is for administrative purposes only and will not be published

carlucci@betterfinance.eu

* Is your organisation included in the Transparency Register?
(If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. Why a transparency register?)

- ◉ Yes
- ◯ No

* If so, please indicate your Register ID number:

24633926420-79

If relevant, please provide us with the following characteristics of the organisation in which capacity are you answering:

Number of employees:

Please round the number to thousands. If it is above 50.000, just indicate 50.000)

employees

AuM benchmarked:

euros

AuM owned:

euros

* Where is your organisation based?

- (x) EU member State
- ( ) Europe, but non-EU
- ( ) North America
- ( ) Latin America
- ( ) Asia
- ( ) Africa
- ( ) Other

Important notice on the publication of responses

* Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?
(see specific privacy statement)

- (x) Yes, I agree to my response being published under the name I indicate (*name of your organisation /company/public authority or your name if your reply as an individual*)
- ( ) No, I do not want my response to be published

2. Your opinion

1.1 Overall ESG disclosure

Disclosure requirements for all benchmarks

1. The TEG believes that the sustainability disclosure requirements for all benchmarks in the methodology and in the benchmark statement should be distinguished by type of asset classes. Do you agree with this approach?

- (●) Yes
- ( ) No
- ( ) Don't know / no opinion / not relevant

2. Do you believe that non-significant benchmarks should disclose less information than significant benchmarks, in line with the proportionate approach set out in the benchmark regulation (Regulation (EU) 2016/1011)?

- ( ) Yes
- (●) No
- ( ) Don't know / no opinion / not relevant

3.a The TEG has identified different types of KPIs of the benchmarks for the respective asset classes (see Section 3 of the TEG report on climate benchmarks and ESG benchmarks' disclosures - 'the Report' - Annex I to VII).

On a scale from 1 to 5, please express your view as to the level of satisfaction for the suggested KPIs for the respective asset class of benchmarks (1 indicating the lowest level of satisfaction regarding the KPIs):

	1 (lowest level of satisfaction)	2	3	4	5 (highest level of satisfaction)	Don't know / no opinion / not relevant
Equities (annex I)	( )	( )	( )	( )	( )	( )
Fixed Income - Corporates & Securitised (ABS) (annex II)	( )	( )	( )	( )	( )	( )
Fixed Income – SSA (annex III)	( )	( )	( )	( )	( )	( )
Commodities (annex IV)	( )	( )	( )	( )	( )	( )

Infrastructure (annex V)	◉	○	○	○	○	○
Private Equity, Private Debt, Infrastructure (annex VI)	◉	○	○	○	○	○
Hedge Funds (annex VII)	○	○	○	○	○	○

3.b Please indicate any KPI(s) you would not favor to include from the KPIs listed in section 3 of the Report:

1000 character(s) maximum

BETTER FINANCE does not see rationale for excluding Governance factor in annex V (Infrastructure benchmarks) and in annex VI (Private Equity Private Debt, Infrastructure). Corporate governance can be easily measured compared to other criteria. Indeed, data on corporate governance are already available on the market which can facilitate the assessment of exclusionary criteria for issuers that do not comply with corporate governance standards. In addition, corporate practices are very important for investors which are interested in firms that have a transparent business policy concerning decision-making and operation openness to employees and shareholders.

3.c) Please indicate any KPI(s) you would recommend to add to the KPIs listed in section 3 of the Report:

1000 character(s) maximum

4. Do you agree with the mandatory disclosure of ESG ratings for equity and fixed-income benchmarks?

◉ Yes

○ No

○ Don't know / no opinion / not relevant

5. If relevant, please explain the impact of the disclosure of ESG ratings for equity and fixed income benchmarks on you, especially in terms of the costs and benefits implied:

3000 character(s) maximum

According to World Bank report on Incorporating Environmental Social and Governance (ESG) Factors into fixed income investment, there are several important differences between equities and fixed income that need to be kept in mind, in particular the difference between the focus on downside capital risk, cash flow stability and upside capital appreciation. In addition, duration is another important issue. Fixed income investments have a finite period instead of equity holding which can be perpetual.

From a general point of view ESG has been applied more often to equities but it is less clear how ESG factors are applied to fixed income. The management of fixed income is composed of several building blocks, including the analysis of interest rates, inflation, credit quality and liquid risks. Therefore, fixed income investment is very much a quantitative process.
Indeed, debt-related benchmark could be more difficult from an ESG perspective (e.g the relationship between a high debt load and poor governance). Fixed income indices could be more complicated to compile as they include multiple bonds per issuer, multiple issuers per corporate family, private companies (where data is hard to gather and non-corporates entities), covered bonds and other asset backed securities.

6.a The TEG has drawn up templates for the disclosure of ESG information in the benchmark statement and in the methodology (see templates 1 and 2 in Appendix D of the Report).

On a scale from 1 to 5, please express your view regarding the format of these templates (1 indicating the lowest level of satisfaction regarding the format):

- ◯ 1 (lowest level of satisfaction)
- ◯ 2
- ◉ 3
- ◯ 4
- ◯ 5 (highest level of satisfaction)
- ◯ Don’t know / no opinion / not relevant

6.b Would you have any suggestions to improve the format of the templates?

2000 character(s) maximum

Template 1 is the most suitable.
- The information disclosed is concise
- It entails the essential information about ESG factoring
- avoids jargon
- It can be easily understandable to users.

6.c On a scale from 1 to 5, please express your view as to the cost of producing these templates (1 indicating the lowest level of cost of implementation):

- ◯ 1 (lowest level of cost)
- ◯ 2
- ◯ 3
- ◯

4

5 (highest level of cost)

Don’t know / no opinion / not relevant

7 Do you agree that the template for ESG factors in the benchmark statement should be updated at least on a quarterly basis?

Yes

No

Don’t know / no opinion / not relevant

8. Do you agree with the disclosures on overall degree of alignment with the objectives of the Paris Climate Agreement (template 3 in Appendix D)?

Yes

No

Don’t know / no opinion / not relevant

9. Do you think that the CTB & PAB should disclose more information than the information requested in section 4.1 of the Report?

Yes

No

Don’t know / no opinion / not relevant

10. What is the overall impact of the above technical advice on ESG disclosures, especially in terms of costs to benchmark administrators and benefits to investors? Please provide clear indication to which stakeholder your answer belongs.

3000 character(s) maximum

BETTER FINANCE represents individual investors. We believe that what individual investors need are properly disclosed and understood mainstream capital market benchmarks (capital market indices) allowing them to easily asses the performance of different funds against the relevant mainstream capital market segment. Regulators and supervisors are already struggling to enforce the disclosure of the long-term performance of the manager’s mainstream benchmark alongside the performance of the fund (see BETTER FINANCE research findings 2019 new Q&A from ESMA on this: https://betterfinance.eu/article/esma-

reinforces-benchmark-disclosure-requirements-for-ucits/).
Individual investors are therefore still not well informed on mainstream capital market benchmarks and on how to use them. To replace those by – or add to those climate-transition benchmarks would be too complex, confusing and not intelligible at this stage. There are already many mainstream benchmarks, and there will likely be soon as many if not more climate related ones.
It is crucial that rules on climate-related benchmarks comply with the basic investor protection rules of MiFID I and II, in particular that information shall be "likely to be understood by the average member of the group to whom it is directed, or by whom it is likely to be received." This is one of the least enforced investor protection requirements in the EU (Article 44.d MiFID II DR).
In addition, it will be much easier for individual investors in ESG products to assess this way (compare to the relevant mainstream benchmark's long-term performance) the long-term performance of their ESG investment.
Lastly, it is necessary to measure and clearly inform EU savers about the impact of applying ESG criteria on the actual long-term real performance by allowing for the comparison between the actual performance and the corresponding mainstream capital markets' benchmark.
ESG products must benchmark themselves against objective mainstream benchmark to allow to check if their ESG approach made any difference over the long term. This wouldn't be possible if the funds are using specific "sustainability" benchmarks instead and if they created any long-term value for EU savers.
Therefore, we believe that EU should first strengthen the rules and the enforcement on the disclosures on standard "mainstream" indices to be properly understood and used by financial intermediaries before adding environmental specific indices, for disclosure to non-professional individual investors.

11. Do you see a need for guidance from the TEG on ESG data related charges similar to what is set out in the shareholder rights directive II.

- ○ Yes
- ○ No
- ○ Don't know / no opinion / not relevant

1.2 Methodology of the climate benchmarks

12. Do you think the CTB and the PAB differ methodology-wise sufficiently from each other?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not relevant

13.a Please express your agreement with the proposed minimum requirements for C T B .

Use the scale from 1 to 5 (with 1 indicating no agreement):

	1 (no agreement)	2	3	4	5 (full agreement)	Don't know / no opinion / not relevant
Minimum Scope 1+2(+3) carbon intensity reduction of 30 % compared to investable universe	○	○	○	○	○	○
Scope 3 phase-in (2 – 4 years)	○	○	○	○	○	○
The green brown share ratio shall at least be equivalent to the green share/brown share ratio of the investable universe	○	○	○	○	○	○
Minimum exposure to sectors highly exposed to climate change issues is at least equal to market benchmark value	○	○	○	○	○	○
At least 7% of annual decarbonisation: in line with or beyond the decarbonisation trajectory from the IPCC's 1.5°C scenario (with no or limited overshoot)	○	○	○	○	○	○

13.b Please provide any comments on recommended changes or additions to the minimum requirements listed in question 13.a:

3000 character(s) maximum

The metric used to normalize GHG emissions only considers CO2 emissions. It unequivocal that CO2 emissions are not the only GHGs which contribute to climate change and global warming. In order to have a more effective benchmark, the mitigation criteria should consider other GHGs emitted by human activities. The Kyoto protocol regulates several of these dangerous emissions which are methane (CH4), nitrous oxide (N2O), the hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF6).

For example, Methane is a significantly more potent greenhouse gas than carbon dioxide in the amount of heat it can trap, especially in the short term. For this reason, BETTER FINANCE believes that the metric needs to take into consideration additional GHGs. Furthermore, BETTER FINANCE would like to underline the importance of long-term structural changes. The economic activity under screening needs to reflect a long-term structural change in avoiding or reducing greenhouse gas emissions or enhancing greenhouse gas removals in order to be considered eligible.

14.a Please express your agreement with the proposed minimum requirements for P A B .

Use the scale from 1 to 5 (with 1 indicating no agreement):

	1 (no agreement)	2	3	4	5 (full agreement)	Don't know / no opinion / not relevant
Minimum Scope 1+2(+3) carbon intensity reduction of 30 % compared to investable universe						
Scope 3 phase-in (2 – 4 years)						
The green brown share ratio shall at least be equivalent to the green share/brown share ratio of the investable universe						
Minimum exposure to sectors highly exposed to climate change issues is at least equal to market benchmark value						
At least 7% of annual decarbonisation: in line with or beyond the decarbonisation trajectory from the IPCC's 1.5°C scenario (with no or limited overshoot)						

14.b Please provide any comments on recommended changes or additions to the minimum requirements listed in question 14.a:

3000 character(s) maximum

15. Do you think that it would be relevant to extend the minimum requirements to sovereign indices?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not relevant

16. Do you believe that the requirement set out in the amending regulation (article 23a) for CTB & PAB to select, weight or exclude underlying asset that follow a decarbonisation trajectory should be further clarify in a minimum requirement?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not relevant

17. Do you think the scenario selected to drive the decarbonisation trajectory – IPCC 1.5° with no or limited overshoot – is the most appropriate one?

- ( ) Yes
- ( ) No
- ( ) Don’t know / no opinion / not relevant

18. Do you think the minimum standards suggested in the report leave enough flexibility for market players to further innovate in the field of climate indices aligned with ambitious climate trajectories?

- ( ) Yes
- ( ) No
- ( ) Don’t know / no opinion / not relevant

19. Do you agree having different denominators (e.g. total capital, revenue) for the calculation of the GHG intensity depending on the use case ([table 6 in Section 5.3.3 in the Report](#))?

- Yes
- No
- Don’t know / no opinion / not relevant

20. Do you believe that the definition of total capital (i.e. 'the sum of the book values of common stock, preferred equity, long term debt and minority interest') for the calculation of the GHG intensity is accurate?

- Yes
- No
- Don’t know / no opinion / not relevant

21. What is the overall impact of the technical advice on CTBs and PABs, especially in terms of costs to benchmark administrators and benefits to investors?

3000 character(s) maximum

As previously mentioned, BETTER FINANCE believes that in order to truly benefit investors they should be provided with what they actually need, i.e. mainstream capital market benchmarks (standard indices) allowing them to easily asses the performance of different funds against the same benchmark. It is necessary to measure and clearly inform EU savers about the impact of applying ESG criteria on the actual long-term real performance by allowing for the comparison between the actual performance and the corresponding mainstream capital markets’ benchmark.
ESG products must benchmark themselves against objective mainstream benchmark to allow to check if their ESG approach made any difference over the long term and if they created any long-term value for EU savers.. This wouldn’t be possible if the funds are using specific “sustainability” benchmarks instead
Therefore, we believe that EU should first strengthen the rules and the enforcement on standard indices to be properly understood and used by financial intermediaries before adding environmental specific indices, at least for disclosure to end-investors.

22. Do you see merits in further aligning the proposed benchmarks methodologies with the principles of the taxonomy once the latter is approved?

- (x) Yes
- No
- Don’t know / no opinion / not relevant

3. 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) here:

c634b0fb-f877-4e74-8fc2-d98f1999afef/EN_-_Press_Release_and_Annexes_2_3_-_Better_Finance_replication_of_ESMA_study_on_Closet_Indexing_compressed.pdf

b09ec09c-6925-4a98-b7a7-b3b06ca730e4/PR_-_Benchmark_Disclosure_Compliance_Research_-_040618_compressed.pdf

Useful links

TEG interim report on EU climate benchmarks and benchmarks ESG disclosures (https://ec.europa.eu/info/files/190618-sustainable-finance-teg-report-climate-benchmarks-and-disclosures_en)

Summary of the interim report (https://ec.europa.eu/info/files/190618-sustainable-finance-teg-report-overview-climate-benchmarks-and-disclosures_en)

Call for feedback document (https://ec.europa.eu/info/files/190618-sustainable-finance-teg-interim-report-climate-benchmarks-and-disclosures-call-feedback_en_en)

Specific privacy statement (https://ec.europa.eu/info/files/190618-sustainable-finance-teg-interim-report-climate-benchmarks-and-disclosures-privacy-statement_en)

More on EU climate benchmarks and benchmarks ESG disclosures (https://ec.europa.eu/info/publications/sustainable-finance-teg-climate-benchmarks-and-disclosures_en)

Contact

ec-teg-sf@ec.europa.eu