

# Chapter



## Preamble

THE EUROPEAN COMMISSION,  
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Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014, and in particular the third subparagraph of Articles 25(8) and 26(5) thereof,

01/01/2021

Whereas:

(1) Article 25(7) of Regulation (EU) 2016/1011 obliges administrators of significant benchmarks who choose not to comply with one or more particular requirements of that Regulation to publish and maintain a compliance statement stating why it is not appropriate for them to comply with those requirements. Article 26(3) of that Regulation imposes a similar obligation on administrators of non-significant benchmarks, but in respect of a broader range of requirements.

(2) The compliance statement should allow anyone reading it to identify clearly the provisions of Regulation (EU) 2016/1011 that the administrator of the benchmark has chosen not to apply and the reasons why the administrator considers it is appropriate for it not to comply with those provisions.

(3) Articles 25(7) and 26(3) of Regulation (EU) 2016/1011 require the compliance statement to clearly state why the administrator considers it appropriate not to comply with the provisions in question. The template should therefore require a separate explanation for each of the provisions not applied by the administrator.

(4) The optional exemptions for significant benchmarks in Article 25(1) of Regulation (EU) 2016/1011 are a subset of the potential exemptions for non-significant benchmarks in Article 26(1) of the same Regulation. In order to ensure consistency between the two implementing technical standards required by Article 25(8) and Article 26(5) for those exemptions and avoid potential unnecessary administrative burden for benchmark administrators, it is desirable to have these implementing technical standards in a single Regulation.

(5) Administrators may choose to use a single compliance statement for a family of benchmarks, provided that it allows for a clear identification of the provisions that the administrator chose not to apply for each benchmark covered by the compliance statement. A single compliance statement should not cover significant and non-significant benchmarks. If a family of benchmarks comprises significant and non-significant benchmarks, at least two compliance statements should be prepared.

(6) Administrators should be given sufficient time to ensure compliance with the requirements of this Regulation. This Regulation should therefore start to apply two months after it enters into force,

(7) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority to the Commission.

(8) The European Securities and Markets Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION: