# Chapter 3

# Commission Delegated Regulation (EU) 2020/1818

# Preamble

THE EUROPEAN COMMISSION,

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 Article 19a(2) thereof,

01/01/2021

Whereas:

(1) The Paris Agreement, adopted under the United Nations Framework Convention on Climate Change approved by the Union on 5 October 2016 (the "Paris Agreement"), aims to strengthen the response to climate change, among other means by making investment flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

(2) On 11 December 2019, the Commission adopted its Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions "The European Green Deal". The European Green Deal represents a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. The implementation of the European Green Deal requires that investors are offered clear, long-term signals to avoid stranded assets and to raise sustainable finance.

(3) Regulation (EU) 2016/1011 establishes EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks. The methodology of those benchmarks is based on the commitments laid down in the Paris Agreement. It is necessary to specify the minimum standards applicable to both types of benchmarks. EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks pursue similar objectives but vary in their level of ambition. Most of the minimum standards should therefore be common to both types of benchmarks, but the thresholds should vary depending on the type of benchmark.

(4) There are currently not enough data to assess the carbon footprint resulting from decisions made by sovereign entities. Sovereign-based issuances should therefore not be eligible constituents of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks.

(5) Because the methodology of EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks is based on the commitments laid down in the Paris Agreement, it is necessary to use the 1,5 °C scenario, with no or limited overshoot, referred to in the Special Report on Global Warming of 1,5 °C from the Intergovernmental Panel on Climate Change (IPCC) ("IPCC scenario"). That IPCC scenario is in line with the Commission's objective to reach net zero greenhouse gas (GHG) emissions by 2050, set out in the European Green Deal. To be in line with the IPCC scenario, investments should be reallocated from fossil-fuels dependent activities to green or renewable activities and the climate impact of those investments should improve year after year.

(6) The sectors listed in Sections A to H and Section L of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council, including the oil, gas, mining and transportation sectors, are sectors that highly contribute to climate change. To ensure that EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks provide a realistic image of the real economy, including of sectors that should actively reduce GHG emissions to make the objectives of the Paris Agreement attainable, the exposure of those benchmarks to those sectors should not be less than the exposure of their underlying investable universe. That requirement should, however, only apply to EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks that are equity benchmarks, to ensure that equity investors who support the objectives of the Paris Agreement maintain their influence, via engagement and voting, on the transition of the company towards more sustainable activities.

(7) The calculation of GHG emissions should be comparable and consistent. It is therefore necessary to lay down rules about how often those calculations should be updated and, where applicable, about the currency to be used.

(8) A decarbonisation based only on Scope 1 and Scope 2 GHG emissions could lead to counterintuitive results. It should therefore be clarified that the minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks should not only consider direct emissions from companies, but also emissions assessed on a life-cycle basis and thus including Scope 3 GHG emissions. However, due to the insufficient quality of data currently available for Scope 3 GHG emissions, it is necessary to set out an appropriate phase-in timeline and to allow for the use of fossil fuel reserves for a limited period of time. That phase-in timeline should be based on the list of economic activities set out in Regulation (EC) No 1893/2006.

(9) Benchmark administrators should have the possibility to overweight companies based on the decarbonisation objectives set by those companies. Specific rules relating to decarbonisation targets reported by individual companies should therefore be set out.

(10) EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks should demonstrate their ability to decarbonize themselves from one year to the other. That minimum decarbonisation trajectory should be calculated using the IPCC scenario. Furthermore, in order to prevent greenwashing, conditions for the deviation from the decarbonisation trajectory and for the right to continue to label a benchmark as an EU Climate Transition Benchmark or as an EU Paris-aligned Benchmark should be specified.

3

(11) The main parameter to calculate the decarbonisation trajectory should be the GHG intensity, because that parameter ensures comparability across sectors and is not biased for or against a particular sector. To calculate the GHG intensity, the market capitalisation of the concerned company is necessary. However, where benchmarks apply to fixed-income corporate instruments, the market capitalisation might not be available for companies that do not have equity securities listed. It should therefore be laid down that where EU Climate Transition Benchmarks or EU Paris-aligned Benchmarks apply to fixed-income corporate instruments, benchmark administrators should be allowed to use GHG emissions calculated on an absolute basis, rather than on the basis of GHG intensity.

(12) To ensure comparability and consistency of GHG emission data, rules on how to calculate changes in GHG intensity or absolute GHG emissions should be laid down.

(13) Attaining the objectives of the Paris Agreement requires that both EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks have a baseline percentage reduction in exposure to GHG intensive assets compared to their parent benchmarks or underlying investment universes. However, that percentage reduction should be more significant for EU Paris-aligned Benchmarks, which, by design, are more ambitious than EU Climate Transition Benchmarks.

(14) EU Paris-aligned Benchmarks should not contribute to the promotion of investments in financial instruments issued by companies that violate global standards such as the United Nations Global Compact (UNGC) Principles. It is therefore necessary to lay down specific exclusion criteria that are based on climate-related or other environmental, social and governance (ESG) considerations. EU Climate Transition benchmarks should comply with those exclusion criteria by 31 December 2022, in accordance with the timeline set out in Regulation (EU) 2016/1011.

(15) In order to support a decrease in the use of polluting energy sources and a proper transition to renewable ones, it is also appropriate that companies that derive more than a set percentage of their revenues from coal, oil or gas are excluded from the EU Paris-aligned Benchmarks. The changes in the share of those energy sources out of the global primary energy supply from 2020 to 2050, as expected in the IPCC scenario, should be taken into account to set out those specific exclusions. In particular, according to table 2.6 of the Special Report on Global Warming of 1,5 °C from the IPCC, between 2020 and 2050, the use of coal is expected to drop between 57 % and 99 % and the use of oil between 9 % and 93 %, while the use of gas is expected to go up by 85 % or to drop by 88 %. Gas can be used during the transition to a low carbon economy, in particular as a replacement for coal, which explains its wider expected range of evolution, although the expected median decrease of its use is 40 %. For the same reason, it is necessary to exclude companies that derive more than a set percentage of their revenues from electricity generation activities.

(16) To ensure transparency about the methodology used for the EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, it is appropriate to lay down rules about the necessary disclosures pertaining to the decarbonisation trajectory and the data sources for both categories of benchmarks. For the same reason, it is appropriate to lay down disclosure requirements for benchmark administrators that use estimations for GHG emissions data, whether or not provided by external data providers.

(17) In order to support the harmonisation of the methodology for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks, it is appropriate to lay down rules about the quality and accuracy of data sources,

HAS ADOPTED THIS REGULATION: