

Submission Date

19/11/2021

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Additional Information

Level 1 Regulation

Benchmarks Regulation (BMR) - Regulation 2016/1011

Topic

Climate Benchmarks

Subject Matter

ESG factors and ESG objectives

Question

What is the difference between taking into account ESG factors and pursuing ESG objectives?

19-11-2021

Original language

Answer provided by the European Commission in accordance with article 16b(5) of the ESMA Regulation

When it comes to the consideration of ESG factors by benchmarks, the Benchmark Regulation (BMR) refers to benchmarks that “take into account ESG factors” or benchmarks that “pursue ESG objectives”. Both terms refer to the same situation, a benchmark that integrates ESG factors within its methodology. Both sets of terms can be used interchangeably, and should be understood as substitutable.

In practical terms, the BMR provides for two scenarios:

- either the benchmark or family of benchmarks does not integrate ESG factors in its design: benchmark administrators should clearly mention this as part of methodological and benchmark statement disclosures; or
- the benchmark or family of benchmarks integrates ESG factors in its design: the benchmark is considered to be taking into account ESG factors or, interchangeably, pursuing ESG objectives, and should therefore comply with all relevant methodological and benchmark statement and transparency requirements.

Disclaimer:

The answer clarifies provisions already contained in the applicable legislation. It does not extend in any way the rights and obligations deriving from such legislation nor does it introduce any additional requirements for the concerned operators and competent authorities. The answer is merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudice the position that the European Commission might take before the Union and national courts.