

Final Report

CSA on BMR ESG Disclosure



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1 Executive Summary

Reasons for publication

In December 2023, ESMA announced the launch of a Common Supervisory Action (CSA) conducted together with National Competent Authorities (NCAs) on ESG disclosures under the Benchmarks Regulation (BMR).¹

The CSA aims at assessing how Benchmarks Administrators supervised in the EU comply with the BMR's ESG disclosure requirements, fostering consistent and effective supervision across the EU, as well as identifying good practices and clarifying expectations to enhance the availability and comparability of the ESG information for users of benchmarks. The CSA covers both the disclosure of ESG factors in the benchmarks statement² and in the benchmarks methodology³, as well as specific disclosure requirements regarding climate benchmarks methodology⁴. The CSA contributes to enhancing transparency and preventing greenwashing, one of ESMA's Union Strategic Supervisory Priorities, with a view to protecting investors and further supporting the development of a credible ESG market.

This report sets out the analysis and conclusions on the CSA exercise and presents the competent authorities' (CAs) views on the findings. Specifically, for several ESG factors, the CSA exercise outlined that the lack of specific guidance on the definition and calculation of ESG factors has resulted in divergent and inconsistent calculation and disclosure practices across administrators as well as benchmarks. In addition, the CSA flagged inconsistent approaches in the underlying assumptions that administrators use for the determination of the factors. In light of the findings of the CSA exercise, this report also provides (1) clarifications of transparency expectations for administrators as well as guidance on the definitions and methodology used for the calculation of the ESG factors, including good practices identified; and (2) recommendations to the Commission for potential amendments to Level 2 measures, including on streamlining ESG disclosure requirements to reduce burden for administrators while ensuring feasibility and safeguarding the value and meaningfulness of disclosed ESG information.

This is the first CSA that ESMA conducted alongside NCAs in its role as a direct supervisor of benchmarks administrators. During the CSA exercise, effective cooperation and joint effort between ESMA and NCAs on BMR regulatory and supervisory matters was essential to identify common supervisory standards and expectations, as well as areas for possible regulatory enhancements.

Contents

Section 2 explains the background of the exercise and its organisation, section 3 the scope of the analysis and the methodology used. Sections 4 and 5 set out the main findings and recommendations of the CSA.

More specifically, Section 4 outlines overall findings regarding benchmarks supervised in the EU and the related mandatory ESG disclosure requirements as set out in the BMR. Section 5 highlights specific findings and recommendations relating to the individual ESG factors and corresponding disclosure.

Next Steps

Building on the findings of the CSA exercise, ESMA will continue liaising and cooperating with CAs on this topic and related follow-up actions.

ESMA, together with the NCAs, will also assess whether there is a need to use other supervisory convergence tools to build a stronger supervisory culture across the EU and promote effective, sound and consistent supervision with regard to ESG disclosure.

Furthermore, ESMA will stand ready to provide technical advice to the Commission for the purpose of future amendments to the BMR Level 2 measures relating to ESG disclosures.

¹ [ESMA to launch and participate in Common Supervisory Action on ESG disclosures for Benchmarks Administrators \(europa.eu\)](#)

² [Commission Delegated Regulation \(EU\) 2020/1816](#)

³ [Commission Delegated Regulation \(EU\) 2020/1817](#)

⁴ Articles 13 and 14 of the [Commission Delegated Regulation \(EU\) 2020/1818](#) of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks

2 Background

1. In December 2023, ESMA announced the launch of a CSA with NCAs on ESG disclosures under the BMR with a view of jointly assessing benchmarks administrators' ESG disclosure practices and further enhancing supervisory convergences in this area. The CSA was effectively launched in January 2024 and aimed at investigating how:
 - a. supervised administrators comply with the ESG disclosure requirements set out in the BMR;
 - b. supervised administrators providing EU Climate Transition Benchmarks (EU CTB) and EU Paris Aligned Benchmarks (EU PAB) comply with the transparency requirements specifically set out in the BMR for these benchmarks.
2. The BMR includes provisions further stipulating the ESG disclosure for all benchmarks (except for interest rate and foreign exchange benchmarks). The transparency requirements are further detailed in specific Delegated Regulations relating to the disclosure under the benchmark statement and the transparency relating to the benchmarks methodology.
3. The purpose of the CSA was to assess how benchmark administrators comply with those ESG disclosure requirements, and to ensure a comprehensive and consistent assessment of all disclosure requirements applicable to ESG benchmarks. These requirements apply to benchmarks that take into account ESG factors or pursue ESG objectives (hereinafter referred to as 'ESG benchmarks'), including for the sake of clarity EU CTB / EU PAB which by design pursue ESG objectives (as clarified in the Q&A 10.11 on BMR⁵).
4. Moreover, especially for EU CTB / EU PAB, the aforementioned disclosure requirements are complemented with the specific transparency and disclosure requirements included in Chapter III of the Commission Delegated Regulation (EU) 2020/1818.
5. The Commission Delegated Regulation (EU) 2020/1816, Commission Delegated Regulation (EU) 2020/1817 and Commission Delegated Regulation (EU) 2020/1818 are applicable since 23 December 2020. The CSA checked administrators' compliance with the disclosure requirements taking into account also the relevant Q&As published.

3 Scope of the analysis and methodology used

6. The CSA consisted of two main phases.
 - a. The first step focused on an assessment at administrators' level including a high-level screening of the administrators covering the administrator's profile and overall

⁵ [ESMA70-145-114 QAs on BMR \(europa.eu\)](#): Q&A 10.1 to 10.13 on EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks

approach to ESG disclosure/transparency, as well as the naming of ESG benchmarks, the description of the market or economic reality measured by the ESG benchmarks and the systems and controls in place to verify the disclosure requirements.

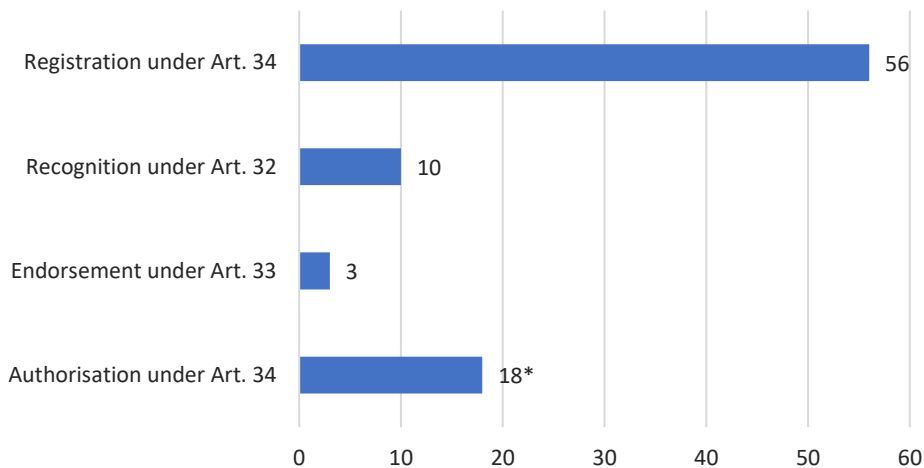
- b. The second phase of the assessment focused on a sample of ESG benchmarks, selected according to pre-defined criteria to ensure consistent scope between CAs. Accordingly, the selected benchmarks covered at least each asset class provided by the administrator, including at least one EU CTB and one EU PAB, if provided. When a subset of benchmark is selected, priority was given to the benchmarks most used in the Union.
7. Specifically, the asset classes of benchmarks available within the portfolios of administrators currently supervised in the EU were Equity and Fixed Income Indices. Therefore, the second step of the CSA focused on the disclosure of ESG factors related to these two asset classes.
8. For the purpose of performing the CSA, the majority of CAs chose a desk-based approach and bilateral discussions with administrators including follow-up questions where necessary (e.g.: in case of unclear or ambiguous responses). Two CAs performed an on-site inspection/visit.

4 Benchmarks supervised in the EU

9. There are 84 Administrators⁶ supervised under the EU BMR by a total of 24 competent authorities.

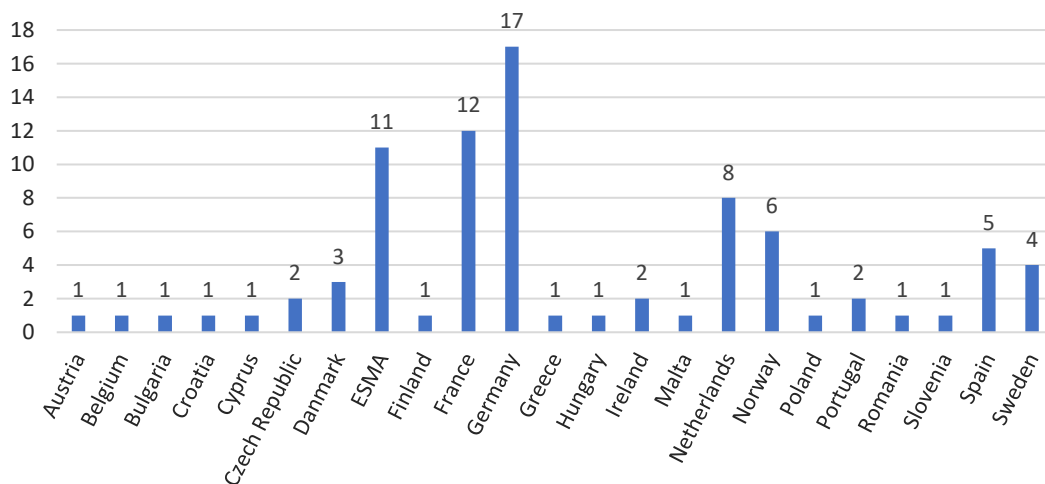
⁶ Source: ESMA register excluding 2 third-country administrators providing benchmarks for which equivalence has been granted.

Number of Administrators per licensing status



* 3 out of these 18 administrators are endorsing benchmarks under Article 33 BMR

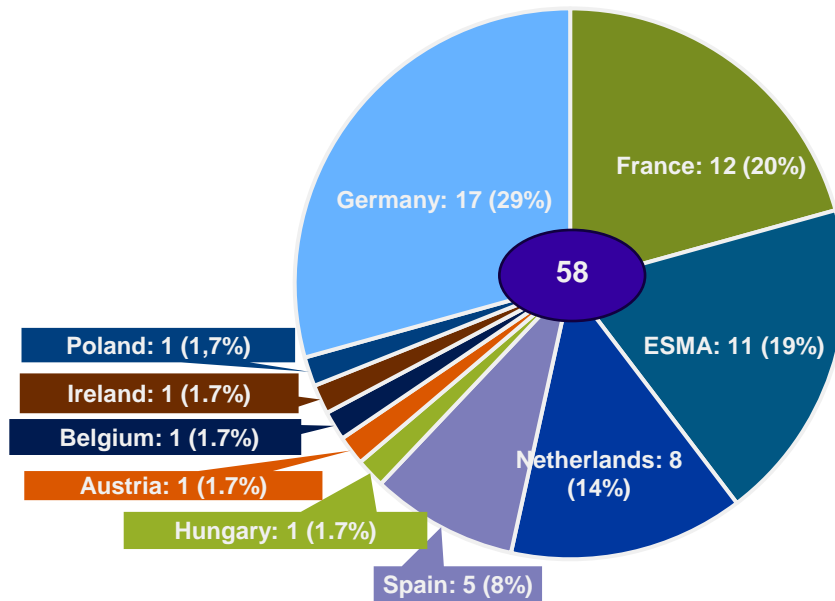
Number of Administrators per Country



10. As of November 2024, there were a total of 12 benchmark administrators providing EU Climate Transition benchmarks (EU CTB) and EU Paris-aligned benchmarks (EU PAB) available in the market, more than half of which are subject to supervision in the EU under the BMR. 6 supervised by NCAs and 1 supervised by ESMA under the third country recognition regime. The remaining administrators are located outside the EU and are currently exempted from the BMR under the transitional regime until 31 December 2025.

11. 10 NCAs participated in the CSA exercise supervising in total 60 administrators.

Number of Administrators



12. According to a recent study commissioned by the EC⁷, ESG benchmarks represent about 10% of the benchmark offering in the EU and demand is on the rise. They have been used by product managers to guide portfolio composition, to screen constituents and as a source of data for mandatory disclosures for financial products. They have supported funds managers for both passive and active strategies. In that context, ensuring the quality of the ESG disclosures in the benchmark sector is key to investors protection and market integrity.

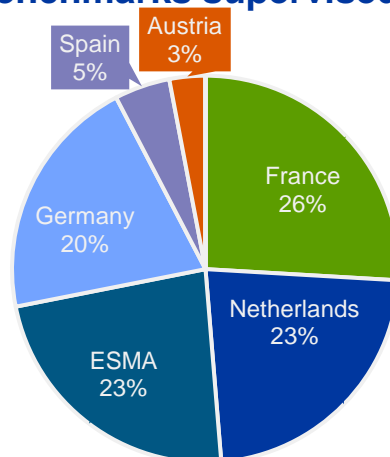
4.1 ESG benchmarks

13. Based on the data provided by supervised administrators in the scope of the CSA, as of 31 December 2023, the split by competent authority of the ESG benchmarks supervised in the EU is as following⁸:

⁷ <https://op.europa.eu/en/publication-detail/-/publication/48ef5e5e-ab55-11ed-b508-01aa75ed71a1/language-en>

⁸ Excluding Norway and Sweden.

% ESG benchmarks supervised in the EU



14. The vast majority of these ESG benchmarks are equity benchmarks with only few of them being Fixed income benchmarks (5% of ESG benchmarks in scope of the CSA). Therefore, the CSA exercise covered only the ESG factors relevant for Equity and Fixed Income asset classes.
15. In the context of the CSA exercise, CAs analysed the reasons behind other administrators not providing ESG benchmarks. Administrators not providing ESG benchmarks specified few key reasons for their decision:
- Not a core business area: ESG benchmarks are not aligned with the main focus or the strategic objectives of the administrator.
 - No availability of ESG data: in particular smaller administrators lack the necessary information or data to launch an ESG Benchmark which would require a large investment from a Benchmark Administrator.
 - No market demand for ESG benchmarks: there is not enough interest or demand from the clients or the users to launch ESG benchmarks.

4.2 Underlying market and ESG data

16. According to Article 1 of the RTS on methodology⁹, the benchmark methodology “*shall be capable of representing the underlying market or economic reality that it seeks to measure and shall incorporate factors, including parameters and input data, that are most relevant to measure the underlying market*”. As a result, when ESG elements constitute relevant

⁹ [RTS on methodology](#): Commission Delegated Regulation (EU) 2021/1352 of 6 May 2021

features of that underlying market or economic reality, the benchmark methodology should include relevant ESG factors, for instance in the context of the selection of the benchmark's constituents.

17. Similarly, Article 1(2) of the RTS on benchmark statement¹⁰ clarifies that when defining the market or economic reality, the benchmark statement “*shall include among others at least a general description of the market or economic reality, and any other information that the administrator reasonably considers to be relevant or useful to help users or potential users of the benchmark to understand the relevant features of the market or economic reality*”. As a result, when ESG elements constitute relevant features of that underlying market or economic reality, the benchmark statement should also include a description of relevant ESG factors.
18. CAs have reported that most administrators clearly and unambiguously define the market or economic reality measured by the ESG benchmark, including a reference to ESG related market measured where relevant. In some cases, clarity can be improved by describing the ESG objectives of the benchmark in more details.
19. Regarding ESG data, CAs have reported that the majority of administrators in scope of the CSA exercise have a system in place to ensure that the information published on the website and in relevant documents, including the benchmark statement, is up to date and updated at least on an annual basis or whenever the information it provides is no longer correct or sufficiently precise.
20. One administrator detailed the different levels of controls applicable to the ESG data. The following are to be considered as good practices. Specifically, the first line of defence controls are split into:
 - a. Process based controls with a well-defined governance structure and formal process and procedures followed for methodology changes, by which the implementation of any ad-hoc changes includes updates to the website, namely covering ESG disclosures. Further, the ESG disclosures pertaining to each benchmark family, as well as to the individual benchmarks comprising such family, are reviewed on a scheduled annual basis, with the outcome of such review being provided to the Oversight Committee.
 - b. Data controls: the frequency of the controls on ESG data are in line with the delivery of the new dataset by the vendor. The checks relate to the data quality: e.g. investigating big changes in underlying data with an impact on the index. The administrator validates the changes with the vendor where needed so that the variation is confirmed prior to the application of the new data in the benchmark's review process. The administrator has in place specific set of controls focusing on

¹⁰ [RTS on benchmark statement](#): Commission Delegated Regulation (EU) 2018/1643 of 13 July 2018

Scope 1, 2 and 3 GHG emissions including identification of outliers and missing data.

21. Finally, the second level of defence controls are performed by compliance following a risk-based plan with the results of the controls and related mitigation measures being reported to the relevant governing bodies.

4.3 ESG terms in benchmarks legal documentation

22. Most of the CAs have reported that the majority of the administrators in the scope of the CSA confirmed that there were no ESG references in the names or methodologies of benchmarks that do not take into account ESG factors or pursue ESG objectives. There are instances where terms used in names or methodologies of non-ESG benchmarks are also used in relation to ESG products, however such use was not deemed as misleading. For example administrators may use 'Inclusion' referring to criteria of inclusion of some benchmarks constituents therefore not relating to sustainable inclusion policies in companies. Also, the use of 'Paris' referring to accepted stock exchanges or trading venues, and not to 'Paris-Aligned' benchmarks.
23. However, two CAs identified some ESG-related terms used in benchmarks names where administrators did not disclose ESG factors. Some of these ESG-related terms used in benchmarks names may be deemed as misleading, for example the use of the term 'Green' or 'Climate change' or 'ESG'. For these benchmarks, administrators were requested to disclose the relevant ESG factors.

4.4 BMR ESG disclosures guiding principles

24. Pursuant to Article 27(2a) BMR, administrators shall include in the benchmark statement *"an explanation of how ESG factors are reflected in each benchmark or family of benchmarks provided and published."* This same article also requires administrators to clearly state in the benchmark statement when benchmarks do not pursue such objectives. Therefore, according to the current BMR rules if a benchmark does not pursue ESG objectives, that benchmark is not required to disclose ESG factors.
25. The CSA exercise has identified inconsistencies in how administrators perceive whether the benchmark *'takes into account ESG factors'* or *'pursues ESG objectives'*. Firstly, ESMA has clarified in a Q&A¹¹ that: *"both terms refer to the same situation, a benchmark that integrates ESG factors within its methodology"* and therefore they *"can be used interchangeably, and should be understood as substitutable"*. Further, ESMA provided practical examples: *"In practical terms, the BMR provides for two scenarios: (i) either the benchmark or family of benchmarks does not integrate ESG factors in its design:*

¹¹ [Search a question | European Securities and Markets Authority](#)

benchmark administrators should clearly mention this as part of methodological and benchmark statement disclosures; or (ii) 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.”

26. In order to ensure consistent application of the BMR, CAs need to apply common principles for supervisory purposes. As a consequence, this final report provides below some elements to be considered by CAs when supervising ESG disclosure obligations as following: i) on a short-term perspective and based on the good practices identified during the CSA exercise, ESMA sees merit in further specifying the criteria to be used for the mandatory disclosure of ESG factors; and ii) on a medium/long-term perspective, this report includes a proposal for a future review of the BMR level 2 measures aiming at streamlining the ESG disclosure requirements.
27. First, to address the finding on the divergent disclosures depending on the type of benchmarks it is important to consider not only the current BMR framework (i.e. ESG disclosure mandated only when a benchmark pursues ESG objectives or takes into account ESG factors) but also the current context of the sustainable finance (SF) framework including a lack of available data¹² and the recent revision of the BMR based on the principle of reducing the burden for administrators. In that context, it seems appropriate that the BMR disclosure requirements are applied to the benchmarks that consider ESG data to select the constituents or that focus on specific ESG goals, for example renewable energy.
28. For the specific case of benchmarks that only apply high level exclusions criteria (i.e. exclusion of controversial weapons and/or companies involved in the tobacco sector) for the selection of the constituents, these benchmarks should not be considered as ESG benchmarks and therefore should not disclose ESG factors.
29. Based on the above guiding principle, CAs should require administrators to disclose the relevant ESG factors when the benchmarks consider ESG data to select the constituents of benchmarks or that focus on specific ESG goals.
30. Furthermore, in the context of the review of the BMR¹³ and as suggested by the European Commission, consideration could be given to streamline the disclosure requirements, to alleviate regulatory burden on administrators of smaller benchmarks in the Union without impairing asset managers’ ability to comply with their own regulatory obligations.
31. One area that could be explored in a future review of BMR in conjunction with a review of the other SF legislation in order to ensure consistency and reduce the burden on administrators is to adapt the ESG disclosure requirements to the specific sustainability

¹² It is to be noted that the implementation of the CSRD and the related ESRS standards as well as the Taxonomy reporting might contribute to the improvement of the data availability and quality, even considering the simplifications proposed in the EC Omnibus package.

¹³ <https://data.consilium.europa.eu/doc/document/ST-5123-2025-REV-1/en/pdf>

objective(s) of the benchmark. This is because ESG factors disclosures are the most meaningful and effective when they allow users to assess the level of ambition of the benchmark in terms of its specific sustainability objectives and to monitor progress over time.

32. Under the current BMR framework, whenever a benchmark pursues one or more ESG objective(s), the disclosure obligation applies indistinctly to all ESG factors listed in Annex 2 of Commission Delegated Regulation (EU) 2020/1816, regardless of the specific sustainability objectives of the benchmark. This extensive disclosure can be unnecessarily burdensome since the administrator usually has access to data that are relevant for the construction of the benchmark. Such data would thus not be sufficient for a meaningful disclosure of all other ESG factors that are not related to the specific sustainability objectives of the benchmark.
33. To reduce burden on administrators without altering the value and usefulness of the information provided to users of the benchmarks, for other factors not linked to the specific ESG objectives of the benchmark, it should be sufficient to disclose minimum sustainability information on a few key sustainability metrics. Such minimum disclosures appear necessary to ensure comparability of ESG benchmarks relative to other mainstream products and to support the assessment of the investment portfolio for users of benchmarks such as investors and asset managers¹⁴.
34. As highlighted in the ESMA Opinion on the functioning of the Sustainable Finance Framework¹⁵ (ESMA Opinion), such minimum sustainability information could consist of a small number of key sustainability metrics in the form of key performance indicators (KPIs). These KPIs should cover basic environmental, social and governance sustainability characteristics. An example of such potential disclosures was provided in the ESMA Opinion as following:
 - environmental indicators: GHG emissions, Impact on Biodiversity, Taxonomy-alignment.
 - social indicators: human rights, labour rights and Taxonomy-alignment.
35. Finally, the guiding principles described in this section, might be considered by the Commission as a basis for future enhancement of BMR Level 2 measures on ESG disclosure. At the same time, this is without prejudice to the fact that a legislative objective in the medium/long-term should be to ensure consistency and compatibility of the ESG disclosures requirement across the various SF legislations as also flagged in Section 5 below.

¹⁴ Such minimum disclosure would also be useful for the development of transition plans under the CSDDD.

¹⁵ [ESMA36-1079078717-2587 Opinion on the functioning of the Sustainable Finance Framework](#).

36. Careful attention should be given to the coherence of the entire SF framework following any future review of SFDR, CSRD and Taxonomy to avoid unintended consequences on relevant stakeholders, such as users of benchmarks or investors.

ESMA Views

Good practices - Guiding principle for the disclosure requirements

- I. Benchmarks that only apply high level exclusions criteria (i.e. exclusion of controversial weapons and/or companies involved in the tobacco sector) for the selection of the constituents should not be considered as ESG benchmarks and therefore administrators should not disclose ESG factors.
- II. Benchmarks that consider ESG data in the selection of the constituents or that focus on specific ESG goals should be considered as ESG benchmarks and therefore administrators should disclose the relevant ESG factors on a mandatory basis.

Level 2 amendments

- III. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers the potential benefits and feasibility of further specifying when administrators should be mandated to disclose ESG factors as well as focusing the disclosure of ESG factors to those most relevant for the benchmark construction and few metrics in terms of minimum sustainability information. Such analysis should nevertheless consider whether any change to Commission Delegated Regulation (EU) 2020/1816 in this regard should be coordinated with a review of other SF legislation (e.g. SFDR).

4.5 Data coverage

37. During the CSA exercise, CAs have assessed the data coverage of each ESG factor. Data coverage relates to the reported or estimated data used for the calculation of the ESG factors, for instance a data coverage of 100% means that all the data needed for the calculation of the factor is available. As part of the CSA administrators were requested to explain the reasons behind any low data coverage observed and the steps they were considering to achieve full coverage.

38. CAs have reported that the most common ESG factors with low data coverage of the constituents were as following:

- a. Weighted average gender pay gap, for which the lowest level of data coverage ranges between 3% and 15%;

- b. Exposure of the benchmark portfolio to companies without due diligence policies on issues addressed by the fundamental International Labor Organisation Conventions 1 to 8 for which the lowest level of data coverage is 8%;
 - c. Weighted average ratio of accidents, injuries, fatalities for which the lowest level of data coverage is 54%;
 - d. Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws for which the lowest level of data coverage is 15%.
39. The aforementioned four ESG factors are all within the category of 'Social' factors, and all four are also subject to disclosure under SFDR. In contrast, all factors within the 'Environmental' category have high data coverage levels around 100%. However, most administrators do not disclose the data coverage levels.
40. The reasons for low data coverage include the following:
- a. the data is missing from the data providers, either because the data point is not collected for the company or underlying asset, meaning that the issuer is outside the coverage universe for the relevant factor, or one or more underlying data inputs used to compute a factor is unavailable.
 - b. the data is missing due to the non-disclosures of companies that do not report the data needed to calculate the relevant factor.
41. CAs have reported that in most cases administrators were actively engaging with data providers to improve data coverage.
42. The calculation formula of the data coverage should be as following:
- $$\frac{\text{Number of constituents with available data (provided by data provider or reported by companies)}}{\text{Total number of constituents of the benchmark}}$$
43. Further, CAs have reported that the calculation of the ESG factors when data was not available for specific constituents impaired the representativeness of the ESG factor compared to the benchmark. This is because companies not disclosing the information were excluded from the calculation of the ESG factor, which thus necessitated a reweighting of the portfolio to only consider the constituents for which data is available. In such situations, administrators should be more transparent on the calculation made.
44. ESMA notes that the CSRD¹⁶ on corporate sustainability reporting including the accompanying European Sustainability Reporting Standards (ESRS)¹⁷ and the related future amendments proposed in the EC Omnibus package¹⁸ as well as the review of other

¹⁶ [Directive - 2022/2464 - EN - CSRD Directive - EUR-Lex](#)

¹⁷ [Delegated regulation - EU - 2023/2772 - EN - EUR-Lex](#)

¹⁸ The first Omnibus proposal [0affa9a8-2ac5-46a9-98f8-19205bf61eb5_en](#) and The second Omnibus proposal [892fa84e-d027-439b-8527-72669cc42844_en](#)

SF legislations (such as SFDR¹⁹ and the accompanying Delegated Regulation²⁰) should drive changes to data availability and coverage related to ESG factors.

45. Notwithstanding the above regulatory developments, there might still be data limitations for some factors. This low data coverage should not be used to drive dilution or to hinder data quality to allow for a bigger coverage. Requiring transparency on data coverage is necessary so that users of benchmarks can take into account data coverage aspects when analysing the disclosed data.

ESMA Views

- IV. When administrators set up an ESG benchmark, they must do their best efforts to get the data required for the ESG calculation. While the practice of reweighting of the portfolio is needed to be able to calculate the factors when data for some constituents of the benchmark is not available, ESMA stresses the need for administrators to be more transparent on the calculation made. When the ESG factor calculation considers a subset of the constituents, users of benchmarks should be aware of the percentage of the constituents taken into account.
- V. For that purpose, a good practice could be for administrators to enhance transparency and disclose the data coverage for all ESG factors calculated. In addition, when the data coverage is low, administrators could explain the reason behind such a low coverage.

5 Mandatory ESG factors

46. CAs have analysed the different disclosure requirements under BMR on a sample of ESG benchmarks. The findings relating to some ESG factors are outlined below. As the sample of benchmarks included equity and fixed income indices, the analysis on the ESG disclosed factors related only to the factors relevant for these two asset classes. For the factors listed below, either the CSA has flagged relevant findings and/or recommendations are suggested. For the remaining factors not listed below, CAs have not reported any disclosure issues.
47. In addition to the assessment of compliance with the BMR, it is also important to ensure consistency with the other SF legislations (i.e. the CSRD and the accompanying ESRS, SFDR and the accompanying Delegated Regulation and the Taxonomy Regulation²¹). Specifically, the ESRS disclosure standards will be used as input data for the disclosure at benchmark level and therefore will help improving the data coverage and data quality that

¹⁹ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088

²⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R1288&from=EN>

²¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32020R0852>

administrators use for the calculation of the ESG factors. As an output of the benchmarks ESG disclosure, it is also important to align with the disclosures that users of these benchmarks are required to comply with. The main users of ESG benchmarks are fund managers that have to comply with the SFDR disclosure requirements. Therefore, it is also important to ensure consistency between BMR and SFDR.

48. ESMA also stresses the need to ensure consistency across SF legislations; in particular, whenever one piece of legislation is reviewed, it is important to assess the impact on other legislations to identify the amendments needed to ensure continuous alignment and consistency.

5.1 Sectors and divisions listed in Annex I to Regulation (EC) No 1893/2006

Definition Factor 1 : Degree of exposure of the portfolio to 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 as a percentage of the total weight in the portfolio.

Definition Factor 2: Exposure of the benchmark portfolio to companies the activities of which fall under Divisions 05 to 09, 19 and 20 of Annex I to Regulation (EC) No 1893/2006.

49. CAs have reported that all administrators in the scope of the CSA exercise disclose these two factors. They are both computed as the total benchmark weight expressed as a percentage of all benchmark components within the nine NACE Section codes or the seven NACE division codes.
50. The primary challenge outlined is the mapping of NACE activities to the benchmark constituents' activities.

5.2 GHG Intensity

Definition: Greenhouse gas (GHG) intensity of the benchmark.

51. CAs have reported that all administrators in the scope of the CSA exercise disclose the GHG intensity. However, the approach to Scope 3 emissions varies between administrators:

- a. application of a phase-in approach;
 - b. exclusion of Scope 3 emissions from the disclosure calculations due to data concerns;
 - c. use of Scope 3 emissions in the benchmark methodology (e.g. for EU PAB / EU CTB) but not for disclosure purposes.
52. The fact that Scope 3 emissions are not systematically reported as part of the GHG intensity of benchmarks undermines comparability across benchmarks, especially if the various Scopes are reported in an aggregate manner, with no visibility on the individual type of Scope.
53. Regarding the calculation methodology of the GHG intensity, CAs noted differences in the denominator considered for the calculation as well as the unit of measurement. Some administrators use tonnes of carbon dioxide equivalent (tCO₂eq) per million USD of revenue whereas other administrators use the enterprise value including cash²² (EVIC) in tCO₂eq per EUR terms.

Consistency with other SF legislations

54. ESRS include in Disclosure Requirement E1-6 an obligation for undertakings to disclose in metric tonnes of CO₂eq its: (a) gross Scope 1 GHG emissions; (b) gross Scope 2 GHG emissions; (c) gross Scope 3 GHG emissions; and (d) total GHG emissions. Further, such undertaking shall disclose the GHG Intensity based on net revenue.
55. In addition, the ESRS disclosure is aligned with the GHG intensity in SFDR Delegated Regulation and is calculated as the sum of Scope 1, Scope 2 and Scope 3 emissions for investee companies of a fund divided by the net revenue.

ESMA Views

Good practices

- VI. For consistency with other pieces of SF legislations, the calculation of the GHG intensity factor under BMR should be based on revenues as the denominator instead of the EVIC. Additionally, to enhance transparency, administrators should publish the underlying calculation methodologies and ensure consistency between disclosed information and benchmark methodologies, particularly concerning Scope 3 emissions.
- VII. The recommended calculation formula is :

²² The 'enterprise value including cash' is defined in Article 1(d) of the COMMISSION DELEGATED REGULATION (EU) 2020/1818 as the sum, at fiscal year-end, of the market capitalisation of ordinary shares, the market capitalization of preferred shares, and the book value of total debt and non-controlling interests, without the deduction of cash or cash equivalents.

$$\sum_{i=1}^{i=n} w_i \frac{(\text{Scope 1} + \text{Scope 2} + \text{Scope 3 Emissions (tCO2eq)})_i}{\text{Revenues}_i}$$

With n the number of constituents of the benchmark and w_i the weight of constituent i

Level 2 amendments

- VIII. ESMA recommends to further specify in the Commission Delegated Regulation (EU) 2020/1816, for instance by referring to other pieces of SF legislation, the calculation methodology of the GHG intensity factor as detailed above and include an additional disclosure requirement of the share of Scope 1, Scope 2 and Scope 3 emissions considered in the GHG emissions calculation, in order to enhance comparability.

5.3 Environmental Goods & Services

Definition: Exposure of the benchmark portfolio to activities included in the environmental goods and services sector, as defined in Article 2, point (5) of Regulation (EU) No 691/2011 of the European Parliament and of the Council

56. CAs have reported significant variations in how administrators define the activities to be covered by this factor. For that purpose, this report provides below a clarification of the activities to be considered for the calculation of this ESG factor.
57. The Regulation (EU) No 691/2011²³ defines the environmental goods and services sector as the activities which have as their main purpose the prevention, reduction and elimination of pollution and of any other degradation of the environment. Resource management includes the preservation, maintenance and enhancement of the stock of natural resources. The application of this requirement is meant to cover investments in classification of environmental protection activities (CEPA) and the classification of resource management activities (CReMA) as listed in Annex V of the Regulation (EU) No 691/2011.
58. The Commission technical note²⁴ defines CEPAs as “activities aimed at preventing, reducing and eliminating pollution or any other degradation of the environment” and

²³ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011R0691>

²⁴ [Eurostat EEEA technical note \(2018\) - Secondary materials in European MFA-RME](#)

CReMAs as “environmental activities aimed at preserving and enhancing the stock of natural resources”.

Consistency with other SF legislations

59. Regulation (EU) No 691/2011 was developed in 2011 and is outdated now since the EU has developed an EU Taxonomy meant to provide a common classification clarifying which activities can be considered as environmentally sustainable, with regard to the six overarching environmental objectives of the EU and that have the potential to substantially contribute to the EU’s environmental objectives together with technical screening criteria to assess their taxonomy-alignment. The ESMA Opinion recommended that the Taxonomy should become the sole, common reference point for the assessment of sustainability and should be embedded in all SF legislation. Therefore, the BMR should include a reference to the Taxonomy Regulation and its Delegated Acts to ensure consistency but also to streamline reporting across the sustainable investment value chain.

ESMA Views

Good practices

- IX. To enhance transparency to users of benchmarks, administrators should publish the activities considered for the calculation of this factor and underlying calculation methodologies.
- X. The recommended calculation formula is:

$$\sum_{i=1}^{i=n} w_i \frac{\text{Revenues from environmental goods and services}_i}{\text{Total Revenues}_i}$$

Where n is the number of constituents of the benchmark

and w_i is the weight of constituent i

Level 2 amendments

- XI. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers the potential benefits and feasibility of replacing the disclosure of “Exposure to activities defined as generating environmental goods and services by Regulation (EU) No 691/2011” by the disclosure of metrics on the share of taxonomy-aligned activities of the benchmark constituents. In addition, the factor should also include clear explanation of how such metrics should be computed and reported for instance by referring to other pieces of SF legislation.

5.4 Controversial Weapon Factors

Definition Factor 1: International treaties and conventions, United Nations principles or, where applicable, national law used in order to determine what constitutes a ‘controversial weapon’.

Definition factor 2: Weighted average percentage of benchmark constituents in the controversial weapons sector.

60. CAs have reported that the majority of administrators in the scope of the CSA exercise disclose these factors. The reference in the Commission Delegated Regulation (EU) 2020/1816 to the international treaties and conventions used for the calculation allows users of benchmarks to understand on which basis the calculation is made.
61. However, CAs have reported that due to the broad reference in the definition of the ESG factor to "*international treaties and conventions, United Nations principles, or, where applicable, national law*", different administrators have considered different treaties which resulted in a lack of comparability of the calculation of this ESG factor across benchmarks provided by different administrators.
62. The table below lists some examples of treaties that administrators considered for the calculation of this factor²⁵:

Types of weapons	Treaties/Conventions
Anti-Personnel Mines	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction
Biological Weapons	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
Chemical Weapons	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction

²⁵ Some administrators also referred to national legislations such as The Dutch act on Financial Supervision ‘Besluit marktmissbruik’ art. 21 a. or the Belgian Loi Mahoux.

Cluster Munitions	Convention on Cluster Munitions
Certain Conventional Weapons	United Nations Convention on Certain Conventional Weapons
Nuclear Weapons	Treaty on the Non-Proliferation of nuclear weapons
	International Court of Justice's Advisory Opinion on the Legality of the Threat
	Treaty on the Prohibition of nuclear weapons
	Convention on the Physical Protection of Nuclear Material

Consistency with other SF legislations

63. As opposed to the BMR's broad reference to international treaties, conventions or principle, the SFDR disclosure requirements include a narrower concept of controversial weapons through the Principle Adverse Impact (PAI) indicator number 14, which is defined as: '*Exposure to controversial weapons (anti-personnel mines, cluster munitions, chemical weapons and biological weapons)*'.
64. Further, the ESRS reporting standards include in the Disclosure Requirement SBM-1 – Strategy, business model and value chain – a specific data point on controversial weapons including the same wording as the SFDR PAI indicator.

ESMA Views

Good practices

- XII. To enhance transparency to users of benchmarks, administrators should publish the details of the underlying methodologies used to calculate this factor.
- XIII. The recommended calculation formula is :

$$\sum_{i=1}^{i=n} w_i$$

Where n is the number of constituents of the benchmark

and w_i the weight of constituent i determined as involved in controversial weapons

Level 2 amendments

- XIV. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers the potential benefits and feasibility of replacing the disclosure of “International treaties and conventions, United Nations principles or, where applicable, national law used in order to determine what constitutes a ‘controversial weapon’” by the disclosure of a predefined list of treaties. In addition, the factor should include a clear explanation of how such metrics should be computed and reported for instance by referring to other pieces of SF legislation.

5.5 Tobacco Sector Factor

Definition: Weighted average percentage of benchmark constituents in the tobacco sector.

65. CAs have reported that the majority of administrators in the scope of the CSA exercise disclose this factor. CAs have identified that the broad reference in the ESG factor to “*constituents in the tobacco sector*” led to divergent activities considered by administrators for the calculation resulting in a lack of comparability.
66. For example, administrators may consider as involvement in the tobacco sector not only the cultivation and production of tobacco, consistently with Article 12(1) of the Commission Delegated Regulation (EU) 2020/1818 but also the distribution and retail sale of tobacco products.
67. Regarding the calculation methodology, some CAs have observed that administrators may base the calculation of the factor on revenue data to measure the percentage of the revenues of the company involved in the tobacco activities.

Consistency with other SF legislations

68. Both the SFDR draft RTS²⁶ disclosure requirements and the ESRS reporting standards include a specific data point on the cultivation and production of tobacco²⁷. Therefore, it is

²⁶ [JC 2023 55 - Final Report SFDR Delegated Regulation amending RTS](#)

²⁷ In the Disclosure Requirement SBM-1 – Strategy, business model and value chain

expected that the data covering the cultivation and production of tobacco will improve when undertakings in the scope of the ESRS start reporting the relevant data.

ESMA Views

Good practices

XV. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation, administrators should publish the activities considered for the calculation of this factor and the underlying calculation methodologies.

XVI. The recommended calculation formula is :

$$\sum_{i=1}^{i=n} w_i$$

With n the number of constituents of the benchmark

and w_i is the weight of the constituent i in the tobacco sector

Level 2 amendments

XVII. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers including a clear definition of the activities to be considered for the calculation of this factor taking into account the ESRS disclosure requirement. Further, the regulation should also include an explanation on how to compute such metric in particular whether a revenue threshold should be considered for instance by referring to other pieces of SF legislation.

5.6 Social Violations Factor

Definition: Number of benchmark constituents subject to social violations (absolute number and relative divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law.

69. CAs have reported that all administrators in the scope of the CSA exercise disclose this factor. Administrators mainly use estimates provided by various data providers for the

calculation of this factor. Such data is usually based on controversy screenings. Controversy data relies mainly on news coverage, backward looking focus, consideration of remedies and application of severity criteria. On the latter, severity levels are used to rank the different constituents of the benchmarks with administrators considering in the calculation of this factor the most severe violations (e.g. level 5). CAs have reported that this ESG factor is in the majority of the cases equal to 0%.

70. As a consequence, the broad reference to “social violations as referred to in international treaties and conventions, United Nations principles, and, where applicable, national law” combined with the use of divergent calculation methodologies by data providers to identify social violations, have led to divergences in the computation of this factor undermining its comparability.

Consistency with other SF legislations

71. While the SFDR disclosure requirements includes a specific PAI indicator on Investee countries subject to social violations, the metric²⁸ does not specify the categories of social violations.
72. The Taxonomy Regulation sets out specific criteria for an economic activity to be considered as environmentally sustainable²⁹ (or ‘taxonomy-aligned’) as well as being carried out in compliance with the minimum safeguards set out in Article 18 of the Taxonomy Regulation. These minimum safeguards are procedures that need to be implemented by the undertaking to ensure alignment with the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the ILO declaration on Fundamental Rights and Principles at Work and the International Bill of Human Rights. Moreover, when implementing the minimum safeguards, undertakings must adhere to the principle of Do No Significant Harm (DNSH) in SFDR³⁰.
73. Finally, the ESRS disclosure requirements will require in scope undertakings to disclose information regarding work-related incidents of discrimination and identified cases of severe human rights incidents (e.g., forced labour, human trafficking or child labour)³¹. Such information will include the total number of work-related incidents of discrimination, including harassment, on the grounds of gender, racial or ethnic origin, nationality, religion or belief, disability, age, sexual orientation or other relevant forms of discrimination involving internal and/or external stakeholders across operations reported in the reporting period.

²⁸ Number of investee countries subject to social violations (absolute number and relative number divided by all investee countries), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law

²⁹ Article 3 of the Taxonomy Regulation.

³⁰ Article 18(2) of the Taxonomy Regulation.

³¹ Disclosure Requirement S1-17 – Incidents, complaints and severe human rights impacts

74. The undertaking will also be required to disclose the number of severe human rights incidents, connected to the undertaking's workforce in the reporting period, including an indication of how many of these incidents are cases of non-respect of the UN Guiding Principles on Business and Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work or the OECD Guidelines for Multinational Enterprises.

ESMA Views

Good practices

XVIII. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation, administrators should publish the criteria for social violations considered (e.g. controversy screenings) and the underlying calculation methodologies of this factor.

XIX. The recommended calculation formula is :

$$\frac{\text{Number of constituents subject to social violations}}{\text{Total number of constituents}}$$

Level 2 amendments

XX. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers aligning the calculation of this factor with the ESRS disclosure requirements where available as well as to consider the potential benefits and feasibility of requiring the disclosure of the average controversy rating of the constituents social violations in addition to the number of constituents actually subject to social violations to provide additional information to users and allow more comparability of benchmarks.

5.7 Due Diligence Factor

Definition: Exposure of the benchmark portfolio to companies without due diligence policies on issues addressed by the fundamental International Labor Organisation Conventions 1 to 8.

75. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor. CAs have reported diverse approaches to calculate the factor, with the majority of administrators using True/False indicators i.e. binary classifications.

Consistency with other SF legislations

76. The ESRS disclosure requirements will require undertakings to disclose whether and how their policies with regard to value chain workers align with internationally recognised instruments, including the United Nations (UN) Guiding Principles on Business and Human Rights. The undertaking shall also disclose the extent to which cases of non-respect of the UN Guiding Principles on Business and Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work or the OECD Guidelines for Multinational Enterprises that involve value chain workers have been reported in their upstream and downstream value chain and, if applicable, describe the nature of these cases.
77. Further, the minimum safeguards set out in Article 18 of the Taxonomy Regulation as detailed in the previous section are also relevant for this factor.

ESMA Views

Good practices

XXI. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation administrators should publish the policies considered for the calculation of this factor and the underlying calculation methodologies.

XXII. The recommended calculation formula is :

$$\sum_{i=1}^n w_i$$

Where n the number of constituents of the benchmark

and w_i the weight of constituent i flagged without due diligence policies on issues addressed by the fundamental International Labor Organisation Conventions 1 to 8

Level 2 amendments

XXIII. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers including a clear definition of the policies to be considered for the calculation of this factor as well as the potential benefits and feasibility of further specifying the scope of the metric by including human rights due diligence and not only labour rights, taking into account any future implementation of the Taxonomy on Social objectives.

5.8 Gender Pay Gap Factor

Definition: Weighted average gender pay gap.

80. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor. CAs have identified that the lack of a consistent calculation methodology for the "gender pay gap" has led to divergence among administrators and lack of comparability of this factor. Current approaches include calculating the percentage by which women's salaries are lower than men's (in line with SFDR Delegated Regulation) or using a gender pay gap score.
81. However, it came to CAs attention during the CSA that outcomes of this factor may vary significantly due to adjustments for national pay scales. Therefore, adjustments should also account for factors such as roles, location, and tenure.

Consistency with other SF legislations

82. The ESRS disclosure requirements will require undertakings to disclose "the gender pay gap, defined as the percentage gap in pay between female and male employees" in accordance with Disclosure Requirement S1-16 paragraph 97(a). This metric is complemented by another metric on the ratio between the remuneration of its highest paid individual and the median remuneration for its employees. The latter allowing to provide insight into the level of remuneration inequality inside the undertaking and whether wide pay disparities exist.
83. Further, SFDR disclosure requirements include the 'unadjusted gender pay gap' defined as "the difference between average gross hourly earnings of male paid employees and of female paid employees as a percentage of average gross hourly earnings of male paid employees".

ESMA Views

Good practices

XXIV. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation administrators should publish the underlying calculation methodologies for this factor.

XXV. The recommended calculation formula is:

$$\sum_{i=1}^{i=n} w_i * \frac{\text{pay of male paid employees}_i - \text{pay of female paid employees}_i}{\text{pay of male paid employees}_i}$$

Where n is the number of constituents of the benchmark

and w_i is the weight of constituent i

Level 2 amendments

XXVI. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers including a clear calculation methodology of this factor and considering the potential benefits and feasibility of complementing this factor with the total remuneration factor in line with the ESRS requirements. The relevance of this additional factor could be further assessed on the basis of companies first CSRD reporting exercise.

5.9 Ratio of Accidents, Injuries, Fatalities Factor

Definition: Weighted average ratio of accidents, injuries, fatalities.

85. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor. Administrators considered various types of accidents, injuries, and fatalities, including workplace injuries (minor, major, and those requiring medical treatment), work-related illnesses, and fatalities. Accidents were categorized by lost time, non-lost time, or commuting incidents, with ratios calculated as the total number of cases per company divided by a normalization factor, such as 200,000 or 1 million hours worked.
86. Therefore, the broad reference to “accidents, injuries, fatalities” has led to divergence in the activities and the normalization factors considered for the calculation of this factor, which resulted in a lack of comparability of the benchmarks.

Consistency with other SF legislations

87. The ESRS disclosure requirements will require undertakings to disclose “information on the extent to which its own workforce is covered by its health and safety management system and the number of incidents associated with work-related injuries, ill health and fatalities of its own workforce. In addition, it shall disclose the number of fatalities as a result of work-related injuries and work-related ill health of other workers working on the undertaking’s sites.” in accordance with Disclosure Requirement S1-14.
88. Further, SFDR disclosure requirements include different indicators relating to accidents, fatalities or illness:

- Investments in companies without workplace accident prevention policies (ESRS S1-1, Policies related to own workforce paragraph 23)
- Rate of accidents (ESRS S1-14 Health and safety metrics paragraph 88(b) and (c))
- Number of days lost to work-related injuries, accidents, ill health and fatalities (ESRS S1-14 Health and safety metrics paragraph 88(e))

ESMA Views

Good practices

XXVII. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation administrators should publish the activities considered for the calculation of this factor and the underlying calculation methodologies including the normalisation factor.

XXVIII. The recommended calculation formula is :

$$\sum_{i=1}^{i=n} w_i * \text{ratio of accidents, injuries, fatalities}$$

Where n is the number of constituents of the benchmark

and w_i is the weight of constituent i

Level 2 amendments

XXIX. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers including a clear definition of the activities to be considered and the normalisation factor for the calculation of this factor as well as considering the potential benefits and feasibility of alignment with the other metrics provided in the other SF legislations.

5.10 Anti-corruption and Anti-bribery Laws Factor

Definition: Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws.

89. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor. However, the broad reference in the ESG factor to "violations of anti-

corruption and anti-bribery laws" has led to inconsistencies in how administrators define and assess such violations, resulting in a lack of comparability.

90. While administrators often reference similar frameworks such as the UN Global Compact Principles, OECD Guidelines for Multinational Enterprises, and UN Guiding Principles on Business and Human Rights, CAs have reported some administrators did not provide the information as required in the definition of the ESG factor. For instance, providing information on monetary losses instead of amount of fines or number of convictions.
91. Additionally, data providers often rely on company self-reported data without a consistent definition of corruption, limiting alignment with international standards. CAs observations revealed gaps in data integration and differences in the treatment of legal proceedings and fines across jurisdictions.
92. Further, the CSA exercise allowed to identify lack of disclosures where some administrators did not calculate both number of convictions and the amount of fines. This was corrected following the exchange with authorities.

Consistency with other SF legislations

93. The ESRS G1-4 (paragraph 24(a)) disclosure requirements will require in scope undertakings to disclose the number of convictions and the amount of fines if the undertaking has received convictions and fines for violation of *anti-corruption* and *anti-bribery* laws.
94. Further, SFDR disclosure requirements include an identical factor defined as following: "Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws by investee companies".
95. Therefore, as opposed to other ESG factors analysed, ESMA notes that this factor is consistent with the existing SF legislation and any change of such legislation should be accompanied by a change in the BMR factor disclosure to ensure consistency.

ESMA Views

Good practices

XXX. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation administrators should publish the anti-corruption and anti-bribery laws referenced alongside their ESG factor calculations to enhance transparency.

XXXI. The recommended formula for the calculation of the number of convictions is:

$$\sum_{i=1}^{i=n} w_i * total\ number\ of\ convictions$$

XXXII. The recommended formula for the calculation of the amount of fines is:

$$\sum_{i=1}^{i=n} w_i * total\ amount\ of\ fines$$

Where w_i is the weight of constituent i

5.11 Independent Board Members

Definition: Weighted average percentage of board members who are independent.

96. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor with no highlighted issues regarding the methodology used for the calculation.

Consistency with other SF legislations

97. The ESRS disclosure requirements will require undertakings to disclose “the percentage of independent board members” in accordance with Disclosure Requirement GOV-1. ESRS further defines that for undertakings with a unitary board, this corresponds to the percentage of independent non-executive board members. For undertakings with a dual board, it corresponds to the percentage of independent members of the supervisory body.

ESMA Views

Level 2 amendments

XXXIII. Since SFDR disclosure requirements do not include a similar PAI indicator, ESMA recommends the Commission that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816 to consider whether this factor should still be disclosed on a mandatory basis under the BMR.

5.12 Gender Board Members Factors

Definition Factor 1: Weighted average percentage of female board members.

Definition Factor 2: Weighted average ratio of female to male board members.

98. CAs have reported that most of the administrators in the scope of the CSA exercise disclose this factor with no highlighted issues regarding the methodology used for the calculation. It is worth noting that while these two factors are distinct indicators, they provide the same information therefore the disclosure of one factor could be deemed as sufficient.

Consistency with other SF legislations

99. The ESRS disclosure requirements will require undertakings to disclose “The board’s gender diversity” as an “average ratio of female to male board members”, in accordance with Disclosure Requirement GOV-1.

100. Further, as opposed to BMR, SFDR disclosure requirements include one PAI indicator on ‘Board gender diversity’ defined as “Average ratio of female to male board members in investee companies, expressed as a percentage of all board members”.

ESMA Views

Good practices

XXXIV. To enhance transparency to users of benchmarks and in light of the different approaches identified for the calculation administrators should publish the underlying calculation methodology for this factor.

XXXV. The recommended calculation formula are:

$$\sum_{i=1}^{i=n} w_i * \frac{\text{number of female board members}_i}{\text{Total number of board members}_i}$$

$$\sum_{i=1}^{i=n} w_i * \frac{\text{number of female board members}_i}{\text{number of male board members}_i}$$

Where n is the number of constituents of the benchmark and w_i is the weight of constituent i

If administrators choose to disclose only one factor, the “*Weighted average ratio of female to male board members*” should be selected in line with the other SF legislations.

Level 2 amendments

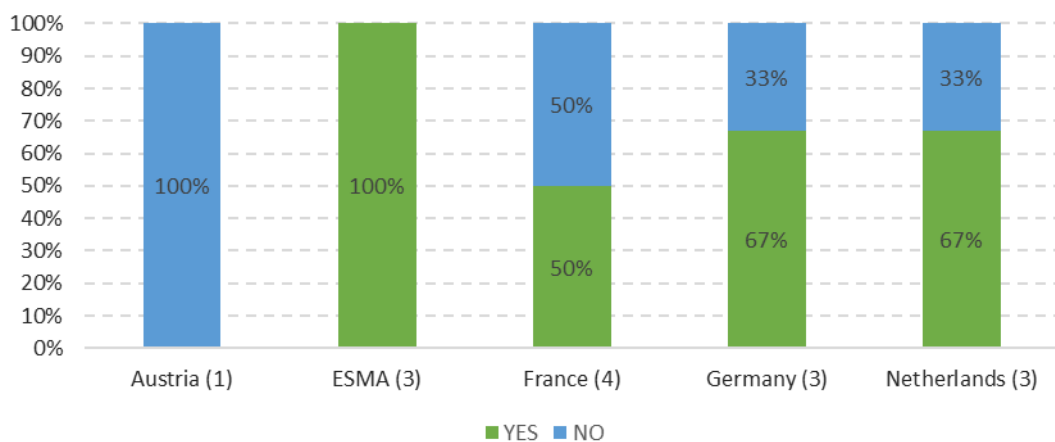
- I. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers replacing the

two separate factors on the i) 'Weighted average percentage of female board members' and ii) 'Weighted average ratio of female to male board members' with a 'Board gender diversity' factor consistent with the other SF legislations including a clear explanation of how such metric should be computed.

6 Voluntary ESG factors

101. CAs have reported that some administrators disclose the voluntary factors. Lack of disclosure was mainly driven by lack of available data in particular for the renewable energy factor and the Climate-related physical risks factor (see details in the next sections). Other reasons put forward for non-disclosure were that the ESG factors do not influence the index construction and clients did not request the disclosure of any of these ESG factors.

Percentage of Administrators Disclosing at least one Voluntary ESG Factor by Country (number of administrators)



6.1 Renewable Energy factor

Definition: Exposure of the benchmark portfolio to renewable energy as measured by capital expenditures (CapEx) in those activities (as a share of total CapEx by energy companies included in the portfolio).

Consistency with other SF legislations

102. This factor as defined in the BMR is not in line with the ESRS and SFDR requirements. In the latter, the factor is measured by the total energy consumption as well as the share (%) from renewable sources instead of the CapEx. For instance, the SFDR defines the

share of non-renewable energy factor as following: “*Share of non-renewable energy consumption and non-renewable energy production of investee companies from non-renewable energy sources compared to renewable energy sources, expressed as a percentage of total energy sources*”.

103. According to the Taxonomy Regulation non-financial undertakings are required to disclose the extent to which their turnover, CapEx and OpEx are associated with economic activities that qualify as environmentally sustainable. The relevant disclosures provide information for all economic activities that are ‘taxonomy-eligible’ (i.e. economic activities for which Technical Screening Criteria have been developed) and distinguish between those activities that are ‘taxonomy-aligned (i.e. environmentally sustainable) and those that are not.

ESMA Views

Level 2 amendments

- II. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers the potential benefits and feasibility to amend this factor to refer to the exposure of the benchmark portfolio to the share of non-renewable energy consumption and production to ensure consistency with other pieces of the SF legislation (ESRS and SFDR).

6.2 Climate-related physical risks factor

Definition: Exposure of the benchmark portfolio to climate-related physical risks, measuring the effects of extreme weather events on companies’ operations and production or on the different stages of the supply chain (based on issuer exposure).

Consistency with other SF legislations

104. The ESRS requires entities to disclose the percentage of assets at material physical risk before considering climate change adaptation actions, disaggregated by acute and chronic physical risk. Therefore, it is expected that the data for material physical risk will be available for administrators to be able to disclose this factor. It is to be noted that SFDR does not require a similar disclosure therefore keeping this factor as voluntary seems appropriate.

ESMA Views

Level 2 amendments

- III. ESMA recommends that in the context of a future review of the Commission Delegated Regulation (EU) 2020/1816, the Commission considers the potential benefits and feasibility to limit the exposure of the portfolio to material physical risks only in line with the ESRS requirements.

7 Follow-up actions and next steps

7.1 Follow-up actions

105. The majority of CAs which took part to the CSA have reported that they considered follow-up actions, which are either planned or have been already executed. Only a few of them noted that, based on the results of the CSA, they are not going to take any subsequent action.
106. CAs will undertake follow-up actions on individual cases, where needed, to ensure that shortcomings or weaknesses identified are remedied.

7.2 Conclusion and next steps

107. The disclosure of ESG factors for different benchmarks aims at enhancing comparability of benchmarks regarding their ESG characteristics to allow investors to make informed decision. The comparability of ESG benchmarks is hindered by the fact that there are inconsistencies between (i) the methodologies that administrators use to calculate the ESG factors, and (ii) the ESG data estimated and used as input data for the purpose of the calculation of the factors.
108. For several ESG factors, there is a lack of guidance on the definition and calculation of ESG factors which makes the disclosure of these quantitative figures not comparable between the different benchmarks. In addition to the calculation, there is inconsistency in the underlying assumptions used for the determination of the factors as well as a misalignment in the standards and units of measurement used. All administrators in scope of the CSA use external data providers (either within the group or third-party data provider), and the ESG disclosure often only states the source of the data (name of the data providers) without disclosing the underlying assumptions and methodologies.
109. Building on these findings of the CSA exercise, ESMA will continue liaising with CAs on this topic and exchange on their (planned) follow-up actions.

110. Furthermore, ESMA will assess whether there is a need to use supervisory convergence tools to build a stronger and more convergent supervisory culture across the EU on ESG disclosure requirements as well as clarify supervisory expectations vis-à-vis benchmarks administrators.

111. Finally, ESMA stands ready to provide technical advice to the Commission for the purpose of future amendments to the Level 2 measures relating to the BMR.