

Brussels, 29 March 2023

## EFAMA'S RESPONSE TO THE EUROPEAN COMMISSION CALL FOR EVIDENCE ON THE REVIEW OF THE SCOPE AND REGIME FOR NON-EU BENCHMARKS

### INTRODUCTION

[EFAMA](#) welcomes the opportunity to respond to the European Commission's Call for Evidence on the 'Review of the scope and third-country regime of the Benchmark Regulation.'

EFAMA fully agrees with the European Commission that the problem areas identified in the Call for Evidence must be addressed. More specially, we agree on the following:

1. Only a few non-EU administrators have made the necessary steps to obtain access to the EU market through recognition or endorsement;
2. Most benchmarks are locally anchored, measuring a local market or economic reality. This means that these benchmarks cannot be easily replaced by an EU benchmark that measures the same market or economy;
3. Non-EU benchmarks that are labelled as EU Climate Benchmarks and EU Paris-Alignment Benchmarks should be subject to EU supervision of all label-related BMR provisions.

### GENERAL VIEWS

The EU Benchmarks Regulation (BMR) has been based on the underlying assumption that non-EU benchmark administrators would be willing to comply with the BMR in order to operate in the European Union. Such assumption has proven to be incorrect as the equivalence, endorsement and/or individual recognition regimes introduced by the BMR have at this stage not resulted in widespread use by third country benchmarks administrators of one of these regimes.

This is mainly due to the fact that meeting one of the three above-mentioned routes may be too costly for providers, therefore, limiting EU users' access to non-EU benchmarks. This is particularly the case for

certain types of benchmarks where the requirements and costs clearly outweigh the benefits of supervision, preventing these providers from entering the market, limiting the choice for EU users, and also hindering product innovation and diversification options with long-term implications for the market.

In addition, as the European market relies on third-country benchmarks (particularly since Brexit), the implementation of the new rules on the use of non-EU benchmarks could deprive EU market participants of the use of world benchmarks provided by small and mid-sized index providers who, unlike the large index providers, do not have a legal representative in the EU and therefore cannot benefit from the mechanism of BMR endorsement and/or recognition regime.

Based on these reasons, we believe that the current provisions of the BMR third country regime are not fit for purpose and should be revised to ensure that EU asset managers have access to non-EU benchmarks that are essential for their daily operations.

EFAMA is of the opinion that the scope of the present BMR should be narrowed in order to capture only those benchmarks that have a significant influence on EU consumers. For this reason, we support a BMR framework in which only selected "strategic" third country benchmarks would be subject to the BMR standards, and the usage of other third country benchmarks would be, in principle, free, with no additional requirements tied to the administrator's standing. It is essential to note, however, that the "strategic" benchmark should not be an additional BMR category, but rather replace the current categories of "significant" and "non-significant" benchmark categories. Also, it is of paramount importance that the new rules apply to both EU and non-EU benchmark administrators, thereby guaranteeing a level-playing field.

To ensure continued access of third country benchmarks to EU market participants, we think the EU should also reduce the current uncertainty around the transition period for the third-country regime. We strongly support an extension of the transition period to end-2025 to ensure both, providers and users, have enough time to adjust to the required changes and prevent interruptions in the provision of services to EU market players.

Finally, with regard to the promotion of EU benchmark labels as an open standard under EU supervision, we strongly believe that non-EU administrators that are offering EU Climate Benchmarks and EU Paris-Alignment Benchmarks labels should be subject to EU supervision.

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## ABOUT EFAMA

EFAMA, the voice of the European investment management industry, represents 27 member associations, 59 corporate members and 25 associate members. At end Q4 2021, total net assets of European investment funds reached EUR 21.9 trillion. These assets were managed by more than 35,000 UCITS (Undertakings for Collective Investments in Transferable Securities) and more than 30,000 AIFs (Alternative Investment Funds). At the end of Q3 2021, assets managed by European asset managers as investment funds and discretionary mandates amounted to an estimated EUR 31.3 trillion. More information is available at [www.efama.org](http://www.efama.org)

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