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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 13 July 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: ANNEXES to the COMMISSION DELEGATED REGULATION (EU)
supplementing Regulation (EU) 2016/1011 of the European Parliament and
of the Council with regard to regulatory technical standards for the
information to be provided in an application for authorisation and in an
application for registration

Delegations will find attached document C(2018) 4438 final ANNEX 1.

Encl.: C(2018) 4438 final ANNEX 1.



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ANNEXES 1 to 2

ANNEXES

to the

COMMISSION DELEGATED REGULATION (EU)

supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the information to be provided in an application for authorisation and in an application for registration

ANNEX I
Information to be provided in an application for authorisation under Article 34 of
Regulation (EU) 2016/1011

1. GENERAL INFORMATION

- (a) Full name of the applicant and its Legal Entity Identifier (LEI).
- (b) Address of the office within the European Union.
- (c) Legal Status.
- (d) Website, if any.
- (e) With respect to the contact person for the purpose of the application:
 - (i) name;
 - (ii) title;
 - (iii) address;
 - (iv) e-mail address;
 - (v) telephone number.
- (f) Where the applicant is a supervised entity, information about its current authorisation status, including the activities for which it is authorised and its relevant competent authority in its home Member State.
- (g) A description of the operations of the applicant in the European Union, whether or not subject to financial regulation, that are relevant for the activity of provision of benchmarks, along with a description of where these operations are conducted.
- (h) Any deed of incorporation, articles of association or other constitutional documents.
- (i) Where the applicant is part of a group, its group structure along with the ownership chart, showing the links between any parent undertaking and subsidiaries. The undertakings and subsidiaries shown in the chart shall be identified by their full name, legal status and address of the registered office and head office.
- (j) A self-declaration of good repute including details, if applicable, of any:
 - (i) proceedings of a disciplinary nature against it (unless dismissed);
 - (ii) refusal of authorisation or registration by a financial authority;
 - (iii) withdrawal of authorisation or registration by a financial authority.
- (k) Number of benchmarks provided.

2. ORGANISATIONAL STRUCTURE AND GOVERNANCE

- (a) Internal organisational structure with respect to the board of directors, senior management committees, oversight function and any other internal body exercising significant management functions involved in the provision of a benchmark, including their:
 - (i) terms of reference or a summary thereof; and

- (ii) adherence to any governance codes or similar provisions.
- (b) Procedures ensuring that the employees of the administrator and any other natural persons whose services are placed at its disposal or under its control and who are directly involved in the provision of a benchmark have the necessary skills, knowledge and experience for the duties assigned to them and operate in respect of the provisions under Article 4(7) of the Regulation (EU) 2016/1011;
- (c) The number of employees (temporary and permanent) involved in the provision of a benchmark.

3. CONFLICTS OF INTEREST

- (a) Policies and procedures that address:
 - (i) how current and potential conflicts of interest are or will be identified, recorded, managed, mitigated, prevented or remedied;
 - (ii) particular circumstances which apply to the applicant or to any particular benchmark provided by the applicant, in relation to which conflicts of interest are most likely to arise, including where expert judgment or discretion is exercised in the benchmark's determination process, where the applicant is within the same group as a user of a benchmark and where the applicant is a participant in the market or economic reality that the benchmark intends to measure.
- (b) For a benchmark or a family of benchmarks, a list of any material conflicts of interests identified, along with the respective mitigation measures. For each critical benchmark, an up-to-date inventory of actual and potential conflicts of interest along with the respective mitigation measures.
- (c) The structure of the remuneration policy, specifying the criteria used to determine the remuneration of the persons involved directly or indirectly in the activity of provision of benchmarks.

4. INTERNAL CONTROL STRUCTURE, OVERSIGHT AND ACCOUNTABILITY FRAMEWORK

- (a) Policies and procedures for monitoring the activities of the provision of a benchmark or a family of benchmarks, including those relating to:
 - (i) the information technology systems;
 - (ii) risk management, together with a mapping of risks which may arise and which may impact the accuracy, integrity and representativeness of the benchmark provided or the continuity of the activity of provision, along with the respective mitigation measures;
 - (iii) the constitution, role and functioning of the oversight function, as described in Article 5 of Regulation (EU) 2016/1011 and further specified in the regulatory technical standards adopted under Article 5(5) of Regulation (EU) 2016/1011¹, including procedures for the

¹ Commission Delegated Regulation (EU) No [Publication Office: Please insert the reference number to document C (2108)...] supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the procedures and characteristics of the oversight function.

appointment, substitution or removal of individuals within the oversight function;

- (iv) the constitution, role and functioning of the control framework, as described in Article 6 of Regulation (EU) 2016/1011, including procedures for the appointment, substitution or removal of individuals responsible for this framework;
 - (v) the accountability framework as described in Article 7 of Regulation (EU) 2016/1011, including procedures for the appointment, substitution or removal of individuals who are responsible for this framework.
- (b) Contingency plans for determining and publishing a benchmark on a temporary basis, including business continuity, and disaster recovery plans.
 - (c) Procedures for the internal reporting of infringements of Regulation (EU) 2016/1011 by managers, employees and any other natural persons whose services are placed at the applicant's disposal or under the control of the applicant.

5. DESCRIPTION OF BENCHMARKS OR FAMILIES OF BENCHMARKS PROVIDED

- (a) A description of a benchmark or family of benchmarks provided or that the applicant intends to provide and the type to which the benchmark belongs, to the best of the knowledge of the applicant and taking into account the provisions of Regulation (EU) 2016/1011, along with an indication of the sources used to determine the type of the benchmark.
- (b) A description of the underlying market or economic reality that the benchmark or family of benchmarks is intended to measure, along with an indication of the sources used to provide this description.
- (c) A description of contributors to a benchmark or family of benchmarks, along with the code of conduct as described in Article 15 of the Regulation (EU) 2016/1011 and for critical benchmarks, the name and location of contributors.
- (d) Information on measures to deal with corrections to the determination or publication of a benchmark or family of benchmarks.
- (e) Information on the procedure to be undertaken by the administrator in the event of changes to or the cessation of a benchmark or a family of benchmarks in compliance with Article 28(1) of the Regulation (EU) 2016/1011.

6. INPUT DATA AND METHODOLOGY

- (a) For each benchmark or family of benchmarks, policies and procedures with respect to input data including those relating to:
 - (i) the type of input data used, their priority of use and any exercise of discretion or expert judgment;
 - (ii) any processes for ensuring that input data is sufficient, appropriate and verifiable;
 - (iii) the criteria that determine who may contribute input data to the administrator and the selection process of the contributors;

- (iv) the evaluation of the contributor's input data and the process of validating input data.
- (b) For each benchmark or family of benchmarks, with respect to the methodology:
 - (i) a description of the methodology highlighting the key elements of the methodology in accordance with Article 13 of the Regulation (EU) 2016/1011 and further specified in the regulatory technical standards adopted under Article 13(3) of Regulation (EU) 2016/1011²;
 - (ii) Policies and procedures including those relating to:
 - (1) the measures taken to provide validation and review of the methodology, including any trials or back-testing performed;
 - (2) the consultation process on any proposed material change in the methodology.

7. OUTSOURCING

Where any activity forming a part of the process for the provision of a benchmark or family of benchmarks is outsourced:

- (a) the relevant outsourcing arrangements, including service-level agreements, which demonstrate compliance with Article 10 of the Regulation (EU) 2016/1011;
- (b) details of the outsourced functions unless this information is already included in the relevant contracts;
- (c) policies and procedures regarding the oversight of the outsourced activities.

8. OTHER INFORMATION

- (a) The applicant may provide any additional information relevant to its application that it considers appropriate.
- (b) The applicant shall provide the requisite information in the manner and form stipulated by the competent authority.

² Commission Delegated Regulation (EU) No **Publication Office: Please insert the reference number to document C (XXXX)...** supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the information to be provided by administrators of critical or significant benchmarks on the methodology used to determine the benchmark, the internal review and approval of the methodology and on the procedures for making material changes in the methodology.

ANNEX II
Information to be provided in an application for registration under Article 34 of
Regulation (EU) 2016/1011

‘A’ means ‘Applicable’

‘N/A’ means ‘Not applicable’

Item in Annex I		Supervised entities providing only non-critical benchmarks	Entities providing only non-significant benchmarks
1) General information			
1(a)	Full name	A	A
1(b)	Address	A	A
1(c)	Legal status	A	A
1(d)	Website	A	A
1(e)	Contact person	A	A
1(f)	Current authorisation status	A ³	A ³ to supervised entities N/A to non-supervised entities
1(g)	Operations conducted	A ³	A ³
1(h)	Constitutional documents	A ³	A ³
1(i)	Group structure	A ³	A ³
1(j)	Self-declaration of good repute	A ³	A ³
1(k)	Number of benchmarks	A	A
2) Organisational structure and governance			
2(a)	Internal organisational structure	A	A
2(b)	Employees	A	A
2(c)	Human resources	A	N/A
3) Conflicts of interest			
3(a)	Policies and procedures	A ⁴	A ⁴ in the form of a summary
3(b)	Material conflicts of interest	A	N/A
3(c)	Remuneration structure	A	A
4) Internal control structure, oversight and accountability framework			
4(a)	Policies and procedures for monitoring the activities of the	A	A ⁵ in the form of a summary

³ Unless already supervised by the same competent authority for other activities than the provision of benchmarks

⁴ An applicant may choose not to provide information relating to point 3(a)(iii) of Annex I, in respect of a significant or non-significant benchmark it provides.

	provision of a benchmark		
4(b)	Internal arrangements for determining and publishing a benchmark	A	A in the form of a summary
4(c)	Internal reporting of infringements	A	A in the form of a summary
5) Description of benchmarks provided			
5(a)	Description	A ⁶	A in the form of a summary
5(b)	Underlying market	A ⁶	A in the form of a summary
5(c)	Contributors	A ⁶	A in the form of a summary
5(d)	Corrections	A ⁶	A in the form of a summary
5(e)	Changes to and cessation	A ⁶	A in the form of a summary
6) Input data and methodology			
6(a)(i)	Description of input data used	A ⁶	A in the form of a summary
6(a)(ii)	Input data - sufficient, appropriate and verifiable	A ⁶	A ⁷ in the form of a summary
6(a)(iii)	Contributors	A ⁶	A in the form of a summary
6(a)(iv)	Evaluation of contributor's input data and validation of input data	A ⁸	N/A
6(b)(i)	Description of the methodology	A ⁶	A in the form of a summary
6(b)(ii)(1)	Validation/Review	A ⁶	A in the form of a summary
6(b)(ii)(2)	Material change	A ⁸	N/A

⁵ An applicant may omit to provide information relating to point 4(a)(iii) of Annex I - with the exception of information on the establishment and maintenance of a permanent oversight function - points 4(a)(iv) and 4(a)(v) of Annex I - for some of the information to be provided on the control and accountability framework - in respect of a non-significant benchmark it provides.

⁶ A supervised entity which provides both significant and non-significant benchmarks may provide such information in the form of a summary with reference to its non-significant benchmarks.

⁷ An applicant may choose not to provide information relating to input data being verifiable in respect of a non-significant benchmark that it provides.

⁸ A supervised entity which provides both significant and non-significant benchmarks may provide such information only for the significant benchmarks it provides.

7) Outsourcing			
7(a)	Contracts	A ⁸	N/A
7(b)	Outsourced functions	A ⁸	A in the form of a summary
7(c)	Control	A ⁸	A in the form of a summary
8) Others			
8(a)	Additional information	A	A
8(b)	Form	A	A