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'I/A' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

No. Cion doc.: C(2018)4425; C(2018)4426; C(2018)4427; C(2018)4430; C(2018)4431; C(2018)4432; C(2018)4434; C(2018)4435; C(2018)4438; C(2018)4439

Subject: Ten (10) delegated acts supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council (Benchmarks Regulation):

- a) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the governance and control requirements for supervised contributors;
- b) COMMISSION DELEGATED REGULATION (EU) No .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards for the form and content of the application for recognition with the competent authority of the Member State of reference and of the presentation of information in the notification to European Securities and Markets Authority (ESMA);
- c) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards determining the minimum content of cooperation arrangements with competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent;
- d) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 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;

- e) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further how to ensure that input data is appropriate and verifiable, and the internal oversight and verification procedures of a contributor that the administrator of a critical or significant benchmark has to ensure are in place where the input data is contributed from a front office function;
- f) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the elements of the code of conduct to be developed by administrators of benchmarks that are based on input data from contributors;
- g) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the criteria to be taken into account by competent authorities when assessing whether administrators of significant benchmarks should apply certain requirements;
- h) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 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;
- i) COMMISSION DELEGATED REGULATION (EU) No .../... of 13.7.2018 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;
- j) COMMISSION DELEGATED REGULATION (EU) .../... of 13.7.2018 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council with regard to regulatory technical standards specifying further the contents of, and cases where updates are required to, the benchmark statement to be published by the administrator of a benchmark.
- = Intention not to raise objections to delegated acts*
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1. The Commission notified on 13 July 2018 the above delegated acts¹ to the Council in accordance with the procedure set out in Article 290 TFEU and in Article 11 (2) of Regulation (EU) No 1095/2010².

¹ Docs. 11188/18; 11190/18; 11191/18; 11192/18; 11193/18; 11194/18; 11201/18; 11202/18; 11198/18; 11199/18

² Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC; OJ L 331, 15.12.2010, p. 84–119

The Council had one month, i.e. until 13 August 2018 to object to them. The Council decided in a written procedure, which expired on 25 July 2018, to extend the objection period in accordance with Article 13(1) of Regulation (EU) No 1095/2010 by one month, and further by another one month, i.e. until 13 October 2018³ .

2. During the silence procedure within the framework of the Working Party on Financial Services, which expired on 19 September 2018, no delegation indicated an intention to object to any of the delegated acts.
3. It is therefore suggested that Coreper invites the Council to confirm that the Council has no intention to object to any of the delegated acts and that the Commission and the European Parliament are to be informed thereof; this implies that, unless the European Parliament objects to it, the delegated acts shall be published and enter into force in accordance with Article 13(2) of Regulation (EU) No 1095/2010.

³ CM 3920/18.