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Directorate-General for Financial Stability, Financial Services and Capital Markets Union
European Commission
1049 Brussels
Belgium

Submitted via file upload

Call for Evidence: Benchmark Regulation – review of the scope and regime for non-EU benchmarks

MSCI¹ appreciates the opportunity to respond to the Call for Evidence on the review of the scope and regime for non-EU benchmarks (“Call for Evidence”).² We welcome the review of the European Benchmark Regulation (“BMR”) being carried out by the European Commission (“Commission”) which could provide clarity to the investor community and the non-EU benchmark administrators. MSCI further supports the Commission’s efforts to ensure that EU market participants can use globally available benchmarks, so they are not at a disadvantage compared with their peers outside the EU. Below we set out our primary observations on the Call for Evidence and the broader review of the BMR.

1. Support for the extension of the transition period for third-country benchmarks to 31 December 2025

The review of the scope and regime for non-EU benchmarks into the operations of third-country benchmarks should be concluded before the end of the transition period allowing sufficient time for benchmark administrators to make the necessary strategic decisions as to which third-country regime to use and to establish the necessary structures and policies under that new framework. We therefore support an extension of the transition period to 31 December 2025. An extension to end-2025 will provide benchmark administrators with sufficient time to implement any changes to their organisational structure and ensure the uninterrupted provision of services to EU-regulated institutions.

2. The new category of benchmarks should be clearly defined

If the Commission introduces a new category of benchmarks, we would request that sufficient certainty is provided in any proposal so that it is clearly defined which benchmarks will be

¹ On 5 March 2018, MSCI Limited was granted authorisation by the UK’s Financial Conduct Authority as a benchmark administrator; see Benchmark Regulation, *available at* <https://www.msci.com/index-regulation>.

² MSCI previously submitted a response to the European Commission’s Targeted Consultation on the Regime Applicable to the Use of Benchmarks Administered in a Third Country (May 2022); *available at* <https://www.msci.com/documents/1296102/1311232/MSCI+Response+BMR+Consultation+Third+Country+Administrators.pdf>.

considered as “strategic” or “systemic” and what the framework and process will be for the ongoing determination of the new benchmark category. We would propose that the Commission consider using a risk-based approach in developing the new category of benchmarks and consider which benchmarks may present systemic risk to the EU capital market.

3. Amendments to the BMR should not result in multiple supervisory authorities supervising a benchmark administration

We understand that the Call for Evidence relates to review of the regulatory framework for third-country benchmarks. However, if there were a review of the broader regulatory framework for EU benchmark administrators, we would request that it not result in the supervision of a benchmark administrator by both ESMA and a national competent authority.

We would like to thank the Commission for its consideration of MSCI’s submission. Should you have any questions, please do not hesitate to contact me at your convenience through ryan.mensing@msci.com.

Yours sincerely,

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