EBF ref. 035038

30 November 2018

Ms Neena GILL
MEP – European Parliament
Rue Wiertz, 60
B-1050 Brussels

Email: neena.gill@ep.europa.eu

Subject: Draft Report on the proposal for a regulation amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks

Dear Ms. Gill,

The European Banking Federation is supportive of the role the European legislators are playing in stepping up the transformation towards sustainable economy. The banking sector itself plays an important role in financing this transformation and is closely following the relevant legislative developments.

We would like to share a number of key concerns on your report on low carbon and positive carbon impact benchmarks, in particular on the scope and on the amendment number 6, which, in our view, is in conflict with fiduciary duty.

We also would like to share our concern about the implementation status of existing and new critical benchmarks, as detailed below. We would therefore call for the European Parliament to support the Amendment 156 tabled by MEP Anne Sander.

Scope (Amendments 9,13,14,17)

The Draft Report suggests that all benchmarks, without exception, should be included in the positive carbon impact regime by 2022, resulting in **all investments being fully aligned with the Paris Agreement, excluding investments that are not compliant** (Amendment 13). This seems to be at odds with the general purpose of benchmarks, which is to reflect certain market realities, and, in addition, renders the category of low carbon benchmarks redundant.

Amendments 9,14 and 17 further suggest reflecting the impact of other greenhouse gases, social aspects and governance. We question the feasibility of implementing such far-reaching changes by 2022, particularly considering that benchmark administrators are still busy ensuring compliance with the requirements of the EU Benchmark Regulation 2016/1011.

We are, therefore, recommending that Amendments 9,13,14 and 17 be opposed.

Requirements on Investment Policy – Amendment 6

Amendment 6 proposing that **all assets and portfolio managers pursue an investment strategy that is fully aligned with the goals of Paris Agreement** is seen as being in conflict with the fiduciary duty, as it imposes sustainability requirements to all portfolios, not only those marketed as green investments. We believe amendment 6 should not be supported.

Extension of the Transitional Period - Amendment 156

Since the entry into application of the Benchmark Regulation 2016/1011 on the 1st January 2018, benchmark administrators and benchmark contributors have made tremendous efforts to make critical benchmarks compliant by the end of the transitional period. This work is driven by both private and public entities, depending on the considered benchmark. However, it is highly possible that new methodologies are not finalised by 31st December 2019. Besides, IT developments and procedural adjustments will only be possible once the new methodologies are approved and fully in place. Finally, revising all contracts can only be possible when new methodologies are final and replacing benchmarks are approved by the relevant competent authorities.

As a consequence, an extension of the transitional provisions until 1 January 2022 would ensure an adequate solution**,** allowing a smooth implementation of compliant benchmarks -either designated as critical benchmarks (e.g. EONIA and EURIBOR) or third country benchmarks -discontinuation of which would affect the continuity of contracts that reference them.

This would (i) allow authorities to finalise their work on the various rates, (ii) allow contributors and administrators to ensure their timely compliance with BMR, (iii) allow market participants to adapt to new market conditions; (iv) keep the momentum of the actors involved and (v) align transition deadlines with those established in other regions facing similar challenges (i.e. the UK or US).

We therefore welcome Amendment 156, which will ensure a smooth transition and would like to encourage the European Parliament to support this amendment.

We would be very pleased to explain our concerns in more detail if required.

Yours sincerely,

Wim Mijs

Chief Executive Officer
European Banking Federation

Cc.: Anne Sander, Syed Kamall, Lieve Wierinck, Matt Carthy, Molly Scott Cato and Barbara Kappel