

[Frank Elderson](#)

Member of the Executive Board

Mr Didier Seeuws
Director General for General and Institutional Policy
Council of the European Union
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Frankfurt am Main, 16 February 2024

Contact person: Marek Svoboda

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Request for an ECB opinion on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/1011 as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements.

Your reference: SGS 23/005263

Dear Mr Seeuws,

Thank you for your letter of 14 December 2023 requesting, on behalf of the Secretary General, an opinion of the European Central Bank (ECB) on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards the scope of the rules for benchmarks, the use in the Union of benchmarks provided by an administrator located in a third country, and certain reporting requirements¹ (hereinafter 'the proposed regulation').

After careful consideration, the ECB has decided not to adopt an opinion in the present case as the proposed regulation only touches marginally on the ECB's fields of competence pursuant to Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union in conjunction with the sixth indent of Article 2(1) of Council Decision 98/415/EC², and it does not substantively affect the regulation of critical benchmarks, which is the principal focus of the ECB's concerns in view of the volume and widespread use of such benchmarks (currently Euribor) in the Union and hence their systemic importance for the stability of the financial system. The ECB notes that the proposed regulation centres on an overhaul of the regime for significant benchmarks (the replacement of Article 24), whilst

¹ COM(2023) 660 final.

² Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

the specific rules for critical benchmarks in Articles 20 to 23 of Regulation (EU) 2016/1011 of the European Parliament and of the Council³ are left unchanged.

Please note that this decision is without prejudice to the possible need for the ECB to be consulted on future proposals regarding Regulation (EU) 2016/1011 that fall within the ECB's fields of competence under the Treaty.

I would like to thank the Secretary General of the Council of the European Union for consulting the ECB on the proposed regulation and look forward to the continued good cooperation between the ECB and the Council on proposed Union acts that fall within the ECB's fields of competence.

Yours sincerely,

[signed]

³ Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1).