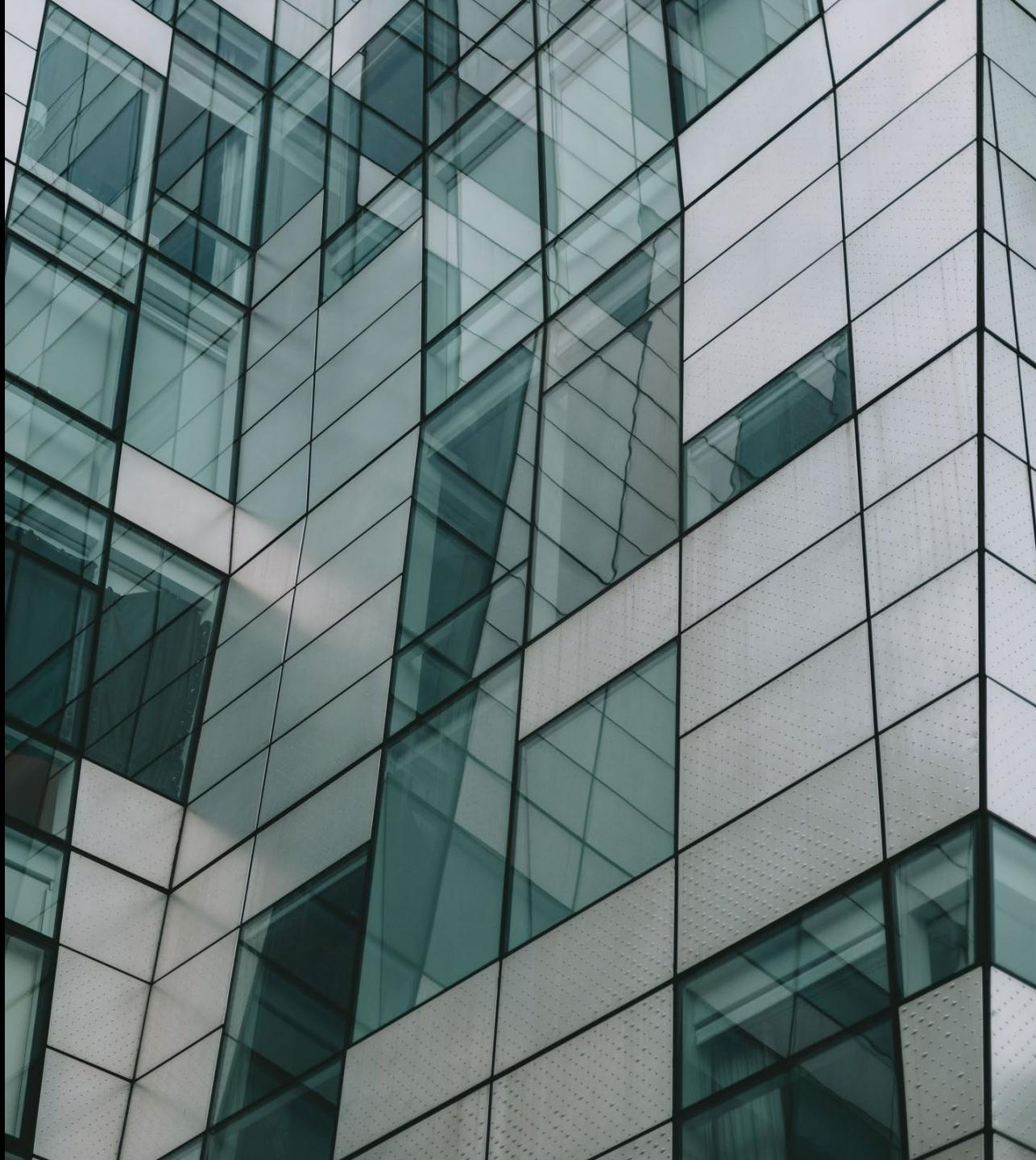


EU Benchmarks Regulation: a guide for benchmark users



Contents

03	Overview
04	Flowchart: adding a benchmark
06	In-scope benchmarks
07	Exemptions
08	Key terms
09	Contacts

Overview: requirements for benchmark users

The EU Benchmarks Regulation imposes requirements on users of benchmarks in the EU.

Supervised entities and those responsible for prospectuses using in-scope benchmarks in the EU should have procedures and controls to ensure compliance with these requirements under the [EU Benchmarks Regulation](#) (BMR).

In-scope benchmarks

From 1 January 2026, the BMR applies to:

- critical benchmarks;
- significant benchmarks;
- EU Climate Transition Benchmarks (CTBs) and EU Paris-aligned Benchmarks (PABs); and
- commodity benchmarks subject to Annex II.

Supervised entities

Adding benchmarks. Supervised entities must not add new references to in-scope benchmarks in financial instruments or financial contracts or in relation to investment funds unless specified conditions are met (see flowchart below).

Monitoring. Supervised entities intending to use in-scope benchmarks must regularly consult the ESMA register of benchmarks and benchmark administrators (or, when operational, the European Single Access Point) to verify the regulatory status of the administrators of those benchmarks.

Replacing benchmarks. If ESMA or a Member State competent authority publishes a notice warning that a significant benchmark does not comply with the BMR, supervised entities using the benchmark in existing financial instruments or financial contracts must replace it with an appropriate alternative within six months, or issue and publish a statement on their website providing clients with a reasoned explanation for not being able to do so.

Planning. Supervised entities using an in-scope benchmark must:

- produce and maintain robust written plans setting out the actions they would take if the benchmark materially changes or ceases to be provided;
- where feasible and appropriate, designate in those plans alternative substitute benchmarks (indicating the reasons for their suitability);
- upon request and without undue delay, provide those plans and any updates to their competent authority; and
- reflect those plans in fallback provisions applicable to financial contracts, financial instruments and investment funds.

Prospectuses

If a prospectus published under the Prospectus Regulation or UCITS Directive references an in-scope benchmark, the issuer, offeror, or person asking for admission to trade on a regulated market must ensure that the prospectus also includes clear and prominent information stating:

- whether the benchmark is provided by an administrator included in the ESMA register; and
- if applicable, that the benchmark is the subject of a warning notice (without undue delay following the notice).

Identifying in-scope benchmarks

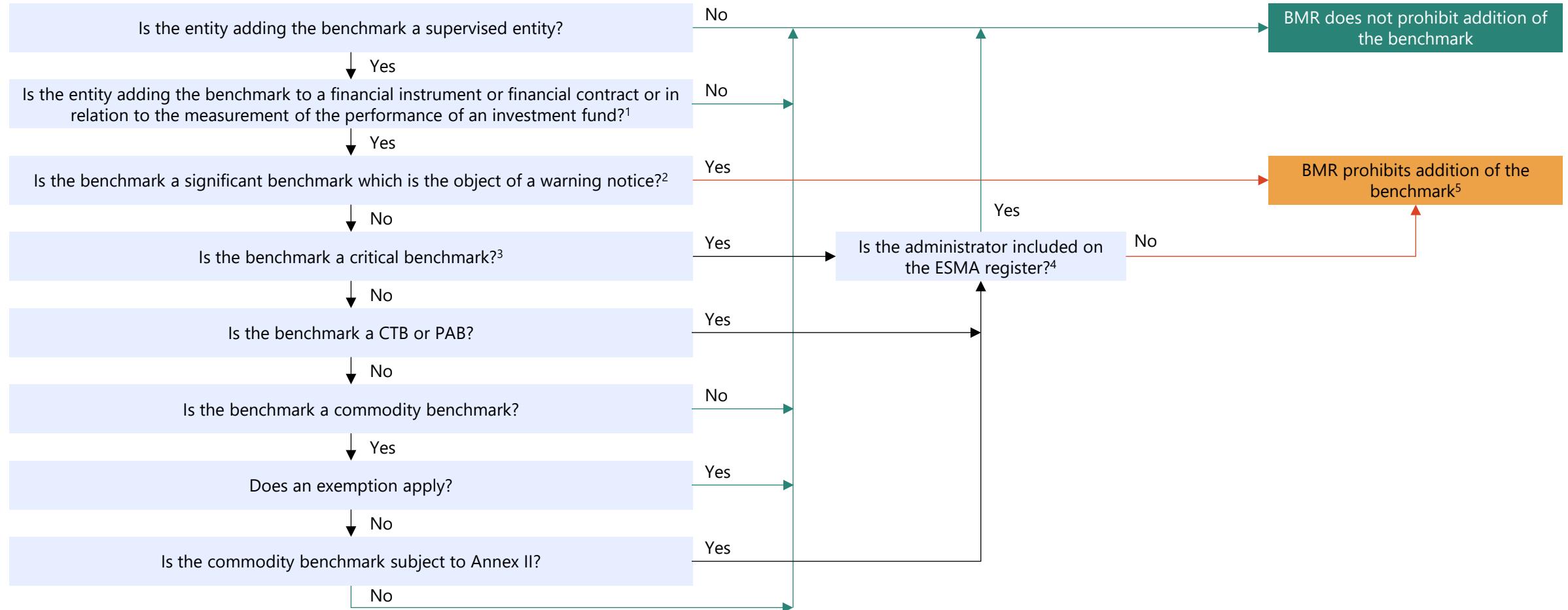
Benchmark users can identify critical benchmarks from the Commission's list, significant benchmarks subject to a warning notice from the ESMA register of benchmarks, and PABs and CTBs because they are labelled as such.

There is no comprehensive source for significant benchmarks not subject to a warning notice or for commodity benchmarks subject to Annex II. Users may have to consider alternative measures to identify these where relevant for compliance with the BMR requirements.

See below for more information on the ESMA register, the categories of in-scope benchmarks, the exemptions from the BMR that may apply and key terms used in the BMR.

For more information, see Clifford Chance, [EU cuts scope of Benchmarks Regulation](#) (June 2025).

Does the BMR prohibit adding a benchmark?



Notes

The flowchart summarises the requirements of the BMR prohibiting the addition of new references to an in-scope benchmark or a combination of benchmarks including an in-scope benchmark. The flowchart assumes that the index being used is a 'benchmark' and that the benchmark is being used 'in the EU'.

1. The BMR applies to the 'use of a benchmark' in the EU. The flowchart assumes that the scope of these requirements is limited by the definition of the 'use of a benchmark' (see below).
2. ESMA is required to publish warning notices about significant benchmarks on its website and to include them in the ESMA register of benchmarks ([here](#) and see below).
3. The list of critical benchmarks is set out in a Commission implementing act ([here](#)). Critical benchmarks will also be listed in the ESMA register of benchmarks (when updated).
4. The ESMA register of benchmark administrators is available [here](#).
5. However:
 - ESMA or the Member State competent authority can allow the use of a benchmark subject to a warning notice for a period of between six and 24 months following the publication of the notice where necessary to avoid serious market disruptions;
 - a supervised entity can use a replacement for a benchmark designated under the BMR to replace a benchmark which ceases to be representative, is subject to wind-down or will cease to be provided or where the relevant authorisation, recognition or endorsement is ending;
 - spot FX benchmarks provided by non-EU administrators may be used for existing and new financial instruments and financial contracts or in relation to investment funds until the entry into force of the Commission implementing act exempting some non-EU spot FX benchmarks from the scope of the BMR; and
 - if ESMA has received, by 31 December 2025, an application for recognition or endorsement under the BMR of a PAB or CTB or a commodity benchmark subject to Annex II provided by a non-EU administrator, the benchmark can be used in existing and new financial instruments and financial contracts pending the outcome of the application.

EU administrators of in-scope benchmarks must seek authorisation or registration under the BMR.

Non-EU administrators of significant benchmarks and of CTBs and PABs must seek recognition or endorsement under the BMR (unless included in the ESMA register of benchmark administrators on the basis of a Commission equivalence decision). However, non-EU administrators of commodity benchmarks subject to Annex II which are not significant benchmarks are not required to seek recognition or endorsement under the BMR (although they may do so to facilitate the use of their benchmarks in the EU).

Administrators included on the ESMA register as at end-2025 retain their status under the BMR until 30 September 2026 and, if their benchmarks are in-scope benchmarks at the end of that period, are not required to re-apply for authorisation or registration or for recognition or endorsement (additional transitional provisions apply to administrators of benchmarks that request designation of their benchmarks as significant by 30 September 2025).

The ESMA public statement on transitional provisions under the BMR review (current version, 3 February 2026, [here](#)) includes a list of:

- applications for recognition and endorsement made by non-EU administrators by 31 December 2025 that are still pending; and
- administrators included in the ESMA register of benchmark administrators that are expected to be outside the scope of the BMR and removed from the register as of 1 October 2026 (unless their benchmarks fall within the BMR in the meantime or their benchmark is designated as a significant benchmark on the basis of a request by the administrator).

ESMA has not yet indicated when its online register of benchmarks and benchmark administrators will be fully updated to reflect the amendments to the BMR that took effect on 1 January 2026. For those administrators that are not registered or in the process of being registered, relevant information on the designation of their benchmarks and any warning notices will be included in a separate table on the ESMA register of benchmarks [here](#).

In-scope benchmarks

Critical benchmarks

Benchmarks provided by EU administrators and listed by the Commission* as fulfilling any of the following conditions:

- they are used in financial instruments or financial contracts or in relation to funds with a total value of at least €500 bn;
- they are based on submissions by contributors the majority of which are located in one Member State and they are recognised as critical in that Member State; or
- they are used in financial instruments or financial contracts or in relation to funds with a total value of at least €400 bn, there are no or very few appropriate substitutes and the discontinuance or non-representativeness of the benchmark would have significant adverse impacts in one or more Member States.

Significant benchmarks

Benchmarks other than critical benchmarks fulfilling any of the following conditions:

- they are used in the EU in financial instruments or financial contracts or in relation to funds with a total average value of at least €50 bn over a six-month period;
- they are designated by a Member State competent authority or (for non-EU benchmarks) ESMA because there are no or very few appropriate substitutes and the discontinuance or non-representativeness of the benchmark would have significant adverse impacts in one or more Member States; or
- they are designated by a Member State competent authority where an EU administrator has requested this and they are used in the EU in financial instruments or financial contracts or in relation to funds with a total average value of at least €20 bn over a six-month period.

CTPs and PABs

Benchmarks labelled as a 'EU Climate Transition Benchmark' or 'EU Paris-aligned Benchmark' and fulfilling requirements set out in the BMR.

Commodity benchmarks subject to Annex II

Commodity benchmarks based on contributed input data unless they are:

- regulated-data benchmarks;
- benchmarks based on submissions by contributors the majority of which are supervised entities; or
- critical benchmarks and the underlying asset is gold, silver or platinum.

Regulated data benchmarks are benchmarks determined by the application of a formula from:

- input data contributed entirely from specified types of regulated venue, publication or reporting service or service provider; or
- the net asset values of investment funds.

* Currently, EURIBOR, EONIA, STIBOR, WIBOR and NIBOR are listed as critical benchmarks.

Exemptions

Exempt benchmarks

The BMR does not apply to the following classes of benchmark:

- commodity benchmarks where:
 - they are based on submissions from contributors the majority of which are non-supervised entities; and
 - the total average notional value of financial instruments referencing the benchmark does not exceed €200 million over a period of 12 months; and
- spot FX benchmarks provided by non-EU administrators designated by an implementing act adopted by the Commission.*

Exempt persons and activities

The BMR does not apply to the following classes of person and activity:

- a central bank;†
- a public authority contributing data to, providing, or having control over the provision of, benchmarks for public policy purposes;‡
- a central counterparty (CCP) providing reference prices or settlement prices used for CCP risk-management purposes and settlement;
- the provision of a single reference price for any financial instrument listed in Section C Annex I EU Markets in Financial Instruments Directive (MiFID);
- the press, other media and journalists where they merely publish or refer to a benchmark as part of their journalistic activities with no control over provision of the benchmark;
- a natural or legal person that grants or promises to grant credit in the course of that person's trade, business or profession, insofar as that person publishes or makes available to the public that person's own variable or fixed borrowing rates set by internal decisions and applicable only to financial contracts entered into by that person or by a group company with their respective clients;
- the provider of an index that is unaware and could not reasonably have been aware that that index is used as a benchmark.

Notes

*The Commission has [published](#) a draft implementing act for this purpose (for comment by 4 March 2026). The BMR requires the Commission to adopt an implementing act by 9 June 2026. See above for the transitional exemption applicable to users pending the entry into force of this act.

†The ESMA Q&A state that the exemption applies to both EU and non-EU central banks and that benchmark users can use benchmarks provided by a central bank, but that supervised entities using such a benchmark should still produce and maintain the written plans required for in-scope benchmarks.

‡The ESMA Q&A state that supervised entities can use benchmarks provided by non-EU public authorities (as defined in the BMR) meeting these conditions.

Key terms

Supervised entities

In the BMR, 'supervised entity' means:

- a credit institution;
- an investment firm;
- an insurance undertaking;
- a reinsurance undertaking;
- a UCITS;
- an alternative investment fund manager (AIFM);
- an institution for occupational retirement provision (IORP);
- a creditor as defined in the EU Consumer Credit Directive;
- a non-credit institution as defined in the EU Mortgage Credit Directive for the purposes of credit agreements under that Directive;
- a market operator as defined in MiFID;
- a CCP;
- a trade repository; or
- an administrator authorised or registered under the BMR.

Use of a benchmark

In the BMR, 'use of a benchmark' means:

- issuance of a financial instrument which references an index or a combination of indices;
- determination of the amount payable under a financial instrument or a financial contract by referencing an index or a combination of indices;
- being a party to a financial contract which references an index or a combination of indices;
- providing a borrowing rate as defined in the EU Consumer Credit Directive calculated as a spread or mark-up over an index or a combination of indices and that is solely used as a reference in a financial contract to which the creditor is a party; or
- measuring the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio, or of computing the performance fees.

Index

A figure that is published or made available to the public and that is regularly determined entirely or partially by the application of a formula or any other method of calculation, or by an assessment and on the basis of the value of one or more underlying assets or prices, including estimated prices, actual or estimated interest rates, quotes and committed quotes, or other values or surveys.

Benchmark

An index by reference to which the amount payable under financial instruments or financial contracts, or the value of financial instruments, is determined, or used to measure the performance of investment funds with the purpose of tracking the return of the index, defining the asset allocation of a portfolio or computing performance fees.

Commodity benchmark

A benchmark where the underlying asset is a commodity as defined under MiFID, excluding emission allowances referred to in Section C Annex I MiFID.

Financial instrument

An instrument listed in Section C Annex I MiFID for which a request for admission to trading on a trading venue has been made or which is traded on a trading venue or via a systematic internaliser (all as defined in MiFID).

Financial contract

A credit agreement as defined in the EU Consumer Credit Directive or the EU Mortgage Credit Directive.

Contacts



Caroline Dawson
Partner
London
+44 20 7006 4355
caroline.dawson
@cliffordchance.com



Marc Benzler
Partner
Frankfurt
+49 69 7199 3304
marc.benzler
@cliffordchance.com



Maria Luisa Alonso Horcada
Counsel
Madrid
+34 91 590 7541
marialuisa.alonso
@cliffordchance.com



Christopher Bates
Special Counsel
London
+44 20 7006 1041
chris.bates
@cliffordchance.com



Anna Biala
Counsel
Warsaw
+48 22429 9692
anna.biala
@cliffordchance.com



Lucio Bonavitacola
Partner
Milan
+39 02 8063 4238
lucio.bonavitacola
@cliffordchance.com



Lounia Czupper
Partner
Brussels
+32 2 533 5987
lounia.czupper
@cliffordchance.com



Boika Deleva
Counsel
Luxembourg
+352 48 50 50 260
boika.deleva
@cliffordchance.com



Milos Felgr
Partner
Prague
+420 222 55 5209
milos.felgr
@cliffordchance.com



Yolanda Ghita-Blujdesu
Senior Associate
London
+44 7779 392426
yolanda.ghita- blujdesu
@cliffordchance.com



James Griffiths
Senior Associate
London
+44 20 7006 5579
james.griffiths
@cliffordchance.com



Frédéric Lacroix
Partner
Paris
+33 1 4405 5241
frederick.lacroix
@cliffordchance.com



Paul Lenihan
Senior Associate
London
+44 20 7006 4622
paul.lenihan
@cliffordchance.com



Stephanie Peacock
Director
London
+44 20 7006 4387
stephanie.peacock
@cliffordchance.com



Jurgen van der Meer
Partner
Amsterdam
+31 20 711 9340
jurgen.vandermeer
@cliffordchance.com

This document is a summary and is not intended to be comprehensive or to provide legal advice. For more information, speak to one of the above or your usual Clifford Chance contact.



Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2026

Clifford Chance LLP is a limited liability partnership registered in England and Wales under no. OC323571. The firm's registered office and principal place of business is at 10 Upper Bank Street, London E14 5JJ. The firm uses the word "partner" to refer to a member of Clifford Chance LLP or an employee or consultant with equivalent standing and qualifications.

cliffordchance.com