Commission Implementing Regulation (EU) 2017/1147 of 28 June 2017 amending Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1147

of 28 June 2017

amending Implementing Regulation (EU) 2016/1368 establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 investments funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014[(1)], and in particular Article 20(1), thereof,

Whereas:

(1) Benchmarks play an important role in the determination of the price of many financial instruments and financial contracts and of the measurement of performance for many investment funds. The contribution to and administration of benchmarks are in many cases vulnerable to manipulation and persons involved often face conflict of interests.

(2) In order to fulfil their economic role, benchmarks need to be representative of the underlying market or economic reality they reflect. Should a benchmark no longer be representative of an underlying market, such as interbank offered rates, there is a risk of negative effects on, inter alia, market integrity, the financing of households (loans and mortgages) and businesses in the Union.

(3) Risks to users, markets and the economy of the Union generally increase where the total value of financial instruments, financial contracts and investment funds referencing a specific benchmark is high. Regulation (EU) 2016/1011 therefore establishes different categories of benchmarks and provides for additional requirements ensuring the integrity and robustness of certain benchmarks considered as being critical, including the power of competent authorities to mandate, under certain conditions, contributions to or the administration of a critical benchmark.

(4) The additional obligations and powers of competent authorities of administrators of critical benchmarks require a formal process for the determination of critical benchmarks. In accordance with Article 20(1) of Regulation (EU) 2016/1011, a benchmark is considered as being a critical benchmark where it is used directly or

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1147. (See end of Document for details)*

indirectly within a combination of benchmarks as a reference for financial instruments or financial contracts or for measuring the performance of investment funds, having a total value of at least EUR 500 billion on the basis of all the ranges of maturities or tenors of the benchmark, where applicable.

(5) Commission Implementing Regulation (EU) 2016/1368[(2)] established a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011. Data analysis and contributions by the European Central Bank have shown that the value of financial instruments and financial contracts referencing the Euro Overnight Index Average (EONIA) in the Union exceeds the threshold of EUR 500 billion set out in Article 20(1) of Regulation (EU) 2016/1011.

(6) The EONIA is an average of unsecured overnight lending transactions of a panel of banks in the interbank market in the Union and in the EFTA. It is the reference interest rate for interest rate swaps in euro. It is therefore crucial for the functioning of the euro swap market and financial stability in the Union.

(7) Based on calculations by the European Central Bank derived from the daily reports of the 52 largest European banks under the money market statistical reporting, the outstanding amounts of the captured money market instruments in the unsecured and the secured market which reference EONIA can be estimated at around EUR 450 billion and EUR 400 billion for this sample of banks alone. In addition, it is estimated that the vast majority of trades in the euro overnight index swap (OIS) market, with notional amount of some EUR 5,2 trillion, are linked to EONIA. EONIA is therefore used directly or indirectly within a combination of benchmarks as a reference for financial instruments or financial contracts or for measuring the performance of investment funds, having a total value of at least EUR 500 billion on the basis of all the ranges of maturities.

(8) The EONIA is provided by the same benchmark administrator as EURIBOR and the panel of banks contributing input data to EURIBOR is effectively a subset of the panel of banks contributing input data to EONIA. While EURIBOR reflects longer-term lending, EONIA covers overnight lending. It is therefore vital for the stability of financial markets that EONIA is designated as a critical benchmark as well.

(9) The list of critical benchmarks established by Implementing Regulation (EU) 2016/1368 should therefore be amended by adding EONIA.

(10) In light of the crucial importance of EONIA for interbank market and the high number of derivatives in the Union referencing it, this Regulation should enter into force as a matter of urgency.

(11) The measures provided for in this Regulation are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) 2016/1368 is replaced by the text in the Annex to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1147. (See end of Document for details)*

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 June 2017.

For the Commission

The President

Jean-Claude JUNCKER