Commission Implementing Regulation (EU) 2016/1368 of 11 August 2016 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) 2016/1368

of 11 August 2016

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(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 indirectly within a combination of benchmarks as a reference for financial instruments

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/1368. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 range of maturities or tenors of the benchmark, where applicable.

(5) Euro Interbank Offered Rate (EURIBOR) measures unsecured inter-bank offered rates in the Euro area and is one of most important interest rate benchmarks worldwide. It is estimated that that benchmark underpins more than EUR 180 000 billion worth of contracts. While these contracts are mostly interest rate swaps, the benchmark also covers more than EUR 1 000 billion of retail mortgages.

(6) Therefore, the value of financial instruments and financial contracts using that benchmark in the Union exceeds the threshold of EUR 500 billion by far.

(7) In light of the crucial importance of EURIBOR for credit loans and mortgages in the Union this Regulation should enter into force as a matter of urgency.

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

HAS ADOPTED THIS REGULATION:

Article 1

The benchmark set out in the annex shall be considered as being a critical benchmark.

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 entirely and directly applicable in all Member States.