

Teleconference of the working group on euro risk-free rates

Wednesday, 31 March 2021, 13:30-17:00 CET

SUMMARY

1. Introductory remarks, approval of the agenda and obligations of the working group members under competition law

Tanate Phutrakul (Chair) opened the call, specifying that the main purpose of the meeting was to finalise the recommendations on both EURIBOR fallback trigger events and €STR-based EURIBOR fallback rates as well as the voting procedure on the recommendations to be launched after the present meeting.

Mr Phutrakul reminded the members of the working group of their obligations under EU competition law, as described in the guidelines on compliance with EU competition law published on the ECB's website.

2. ECB update on the publication of compounded €STR

Helmut Wacket (ECB) presented an update on the publication of the compounded €STR rates and index. On 15 April the ECB would start the daily publication of compounded €STR average rates for the standard tenors (one week, one month, three months, six months and 12 months) as well as the compounded €STR index, which could be used to derive compounded €STR values over non-standard tenors. The final compounded €STR rates benefited from positive feedback received during a public consultation in 2020. The feedback was fully reflected in the final calculation and publication rules.

Mr Phutrakul (Chair) invited questions from working group members. One member asked whether the ECB intended to publish a spread adjustment as well as the compounded rates. **Mr Wacket (ECB)** explained that the ECB had no plans to publish a spread adjustment.

3. Follow-up from the public consultations on EURIBOR fallback provisions

3.1. Draft of the final recommendations on EURIBOR fallback trigger events

José Carlos Pardo (BBVA) presented the final draft of the recommendations on EURIBOR fallback trigger events. The outcome of the public consultation had been very positive, as most of the proposed trigger event scenarios had been supported by the vast majority of respondents. Only two of the events (namely if EURIBOR became unlawful and if the index ceased to be published without prior notice) had garnered a lower level of majority support.

Working group members were invited to comment on the fallback trigger events and, if applicable, confirm their agreement with the said triggers. A few members raised points for clarification regarding the recommendations. **Rick Sandilands (ISDA)** confirmed that the EURIBOR non-representativeness trigger event (recommendation 7) was currently not part of the ISDA's fallback provisions. However, non-representativeness was likely to be included in the 2021 ISDA definitions, which parties could implement if they so wished. **Mr Pardo (BBVA)** also clarified that once ISDA included this trigger event in the 2021 ISDA definitions, recommendation 7 would be consistent with recommendation 4 on pursuing consistency in the implementation of trigger events, where possible and appropriate.

On that basis, the working group members formally approved the draft recommendations on EURIBOR fallback trigger events.

3.2. Draft of the final recommendations on €STR-based EURIBOR fallback rates

Christian Gau (Deutsche Bank) and **Neil McLeod (Erste)** presented the final draft of the recommendations on €STR-based EURIBOR fallback rates, for which the market feedback received during the consultation had been considered.

Working group members were invited to comment on the draft recommendations for fallback rates and, if applicable, confirm their agreement. Several members raised points for clarification and made suggestions regarding the fallback rates. Discussions focussed on i) the functioning of the “waterfall” structure of fallback rates for retail mortgages / consumer loans / small and medium enterprise loans (whether it implied optionality for end users); ii) the treatment of funds transfer pricing (and whether to include a recommendation); and iii) the inclusion of recommendations for (non-linear) derivatives.

Tilman Lueder (European Commission) expressed concern about recommending a term rate that did not actually exist or had no immediate prospect of being produced. He therefore requested that the recommendations include a caveat specifying that the European Commission (EC), in exercising its designation powers under Article 23b of the Benchmark Regulation, was not bound to designate a “waterfall” of recommended rates. **Mr Lueder (EC)** also requested that the recommendations are clear on the fact that an existing and published version of a rate based on €STR should always be the backstop option to be included in contractual negotiations to replace EURIBOR.

The working group agreed to a short, written procedure to finalise the recommendations on €STR fallback rates. This would allow the working group discussion points and the points raised by the European Commission to be addressed. The written procedure would run until 9 April 2021.

3.3. Next steps and voting procedure

Simon Forsyth (ECB) outlined the voting procedure that would follow the written procedure for the recommendations on €STR-based EURIBOR fallback rates. In line with previous voting procedures, each of the 21 voting members would vote on behalf of their respective institution. The ECB Secretariat would compile the votes, which would remain anonymous vis-à-vis the group. If a decision were reached, the recommended EURIBOR fallback trigger events and €STR-based EURIBOR fallback rates would be announced to the working group and published on the ECB’s website simultaneously. Such a decision would ideally be taken at the next working group meeting on 11 May 2021. To be consistent with the working group’s terms of reference, a two-thirds majority was required for a decision.

Mr Phutrakul (Chair) invited questions from working group members on the voting procedure. No questions were raised.

4. Updated terms of reference for the new structure of the working group after the publication of the final recommendations

Iliana Lani (ESMA) presented the draft terms of reference of the new working group, which would apply following the publication of the final recommendations. The draft terms of reference might be amended to give greater detail on potential recommendations by the new working group. In addition, the membership of the new working group was expected to be expanded slightly to include non-bank counterparties.

Mr Phutrakul (Chair) invited questions from working group members on the draft terms of reference. Members agreed that further clarity on potential recommendations would be welcome. One member suggested that the terms of reference include a broad mandate to cover all important benchmarks for EU users.

5. AOB

5.1. EC update on the designation of a statutory replacement rate for CHF LIBOR

Tilman Lueder (EC) updated the working group on the consultation launched by the European Commission aimed at consulting the market on the potential designation of a statutory replacement rate for CHF LIBOR. **Mr Lueder** explained that the Commission had received several submissions from market participants that had concluded contracts containing references to CHF LIBOR (which was to be discontinued at the end of 2021), notably retail mortgage contracts.

The consultation asked for input from market participants and in particular from consumers and consumer associations on i) whether there was a need for the Commission to use its statutory powers in this context, and, if so, on the fairness and acceptability of the solution recommended by the Swiss National Working Group (NWG) as a replacement rate for CHF LIBOR; and ii) on the compatibility of the chosen

methodology with EU and Member State laws protecting consumers. The deadline for responding to the consultation was 18 May 2021.

Upon the request of several members, the Commission representative clarified that the consultation focused on the three-month CHF LIBOR tenor as the submissions received considered this to be the most widely used tenor and no submissions had been received with respect to other CHF LIBOR tenors. However, if market participants believed that other tenors should be included, they were encouraged to provide detailed statistics in their responses to highlight the importance of such other tenors.

The Commission's powers would apply only to contracts that did not contain existing fallback arrangements for CHF LIBOR, but the statutory fallback rate would be applied throughout the EU in contracts governed by the laws of an EU Member State. One member raised concerns about the optionality related to applying a spread adjustment to the compounded rate – the consultation made it clear that such an adjustment would only be applied if it benefitted the mortgage customer. The EC representative explained that this wording followed that of the NWG.

One member asked whether the Commission had any plans to designate a statutory replacement rate for EONIA, given that it would be discontinued at the end of 2021. The Commission representative stated that EONIA would no longer be published as of 3 January 2022 and that the Commission had no plans to designate a statutory replacement rate given that the fallback rate for EONIA was clear (i.e. the €STR) and that the EONIA benchmark itself had been set at €STR+8.5 basis points since October 2019.

List of participants

Participant's organisation

Name of participant

Chairperson

ING

Mr Tanate Phutrakul

Ms Marjolein de Jong-Knol

Voting members

Bank of Ireland

Barclays

Bayerische Landesbank

BBVA

BBVA

BBVA

BNP Paribas

BNP Paribas

BNP Paribas

BPCE/Natixis

CaixaBank, S.A.

CaixaBank, S.A.

Crédit Agricole

Crédit Agricole

Deutsche Bank

Deutsche Bank

DZ Bank

DZ Bank

Erste

Eurobank SA

HSBC

HSBC

ING Bank

Intesa Sanpaolo

KfW Bankengruppe

LBBW

Nordea

Santander

Santander

Santander

Société Générale

Société Générale

UniCredit Bank

Mr Barry Moran

Mr Joseph McQuade

Mr Harald Endres

Mr José Carlos Pardo

Mr Adolfo Fraguas

Mr Ignacio Ollero

Ms Dominique Le Masson

Mr David Gorans

Mr Patrick Chauvet

Mr Olivier Hubert

Mr Francesc Xavier Combis Comas

Mr Julius Moschitz

Ms Florence Mariotti

Mr Yann Marhic

Mr Christian Gau

Mr Juergen Sklarczyk

Mr Philipp Nordloh

Mr Michael Schneider

Mr Neil McLeod

Mr Theodoros Stamatiou

Ms Nathalie Gay Guggenheim

Mr Geoffroy Bertran

Mr Jaap Kes

Ms Maria Cristina Lege

Mr Markus Schmidtchen

Mr Jan Misch

Ms Jaana Sulin

Ms Mónica López-Monís

Mr Javier Pareja

Ms María Teresa Bermúdez Tejero

Mr Stephane Cuny

Mr Olivier Balpe

Mr Umberto Crespi

Non-voting members

European Money Markets Institute
European Money Markets Institute
European Fund and Asset Management Association
International Capital Market Association
International Swaps and Derivatives Association (ISDA)
Loan Market Association

Mr Jakobus Feldkamp
Ms Petra de Deyne
Ms Agathi Pafili
Ms Katie Kelly
Mr Rick Sandilands
Ms Kam Mahil

Invited institutions

European Investment Bank
European Investment Bank
Generali

Mr Nikolaos Tzoldos
Mr Thomas Schröder
Mr Fabio Mandirola

Observers

European Central Bank
European Commission (EC)
European Commission
European Commission
European Securities and Markets Authority (ESMA)
European Securities and Markets Authority
European Securities and Markets Authority
Financial Services and Markets Authority

Mr Helmut Wacket
Mr Tilman Lueder
Ms Alessandra Atripaldi
Mr Rik Hansen
Ms Iliana Lani
Mr Michele Mazzoni
Mr Cristian Weststeijn
Mr Randy Priem

Secretariat

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Mr Simon Forsyth
Mr Pascal Nicoloso
Mr Vladimir Tsonchev