

Teleconference of the working group on euro risk-free rates

Friday, 3 December, 10:00-12:00 CET

Summary

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

Mr James von Moltke (Chair) opened the call. He welcomed all the members of the working group to the final meeting of 2021 and recalled the notable events that took place since the last meeting, namely the designation of a statutory replacement rate for CHF LIBOR and EONIA by the EC, the confirmation by the FCA of the methodology and scope of use for synthetic GBP & JPY LIBOR settings, as well as the guidelines received from US and UK authorities with regards to exceptions relating to prohibition of new use of USD LIBOR in contracts beyond the end of the year.

Mr von Moltke informed WG members that the minutes of the previous WG meeting (September 29th) had been approved, and reminded WG members of the agenda scheduled for today's meeting:

- 1. Introductory remarks, approval of the agenda and obligations of the WG members under competition law*
- 2. Presentation of the new WG Future Book of work plan*
- 3. Discussion on second phase of RFR first for cross currency derivatives with a USD LIBOR leg*
- 4. Update on the letter sent to EC on designation of GBP and JPY LIBOR process*
- 5. Presentation of the WG statement regarding the cessation of representative LIBORs at year end*
- 6. Initiation of discussion on a potential WG recommendation on multi-currency loan facilities use of €STR*
- 7. Presentation of a discussion paper on exceptions to cessation of new use of USD LIBOR after the end of 2021*
- 8. Discussion on proposed amendments to WG terms of reference.*
- 9. AOB*

Finally, Mr von Moltke reminded the members of the WG of their obligations under EU competition law, as described in the guidelines on compliance with EU competition law published on the ESMA's website.

2. Presentation of the new WG Future Book of work plan

Mr Alex Wilson (Chair's office) presented the draft new WG future book of work plan. Mr Wilson walked members through the different sections of the draft document, recalling the context, foreseen timelines and expected outcomes under each mandate of the WG.

The ECB representative deemed the proposed document "clear" and the outlined objectives "very helpful", raising however the point of the timing of implementation for fallbacks (Item 2.3), also flagging that the objectives aiming at fostering the use of €STR (Item 2.1) could be more ambitious and helpful if they were

also to encourage broader markets to engage in this transition. With regards to the implementation of Euribor fallbacks, the ECB representative further explained that [recommendations previously issued by the WG](#) had clearly identified an adequate waterfall structure, which could already be applied even in the absence of forward-looking rates and thus leaving no reason for a delay. Chair's office agreed to take onboard the suggested amendments.

Another member took the floor and explained that it would be appreciated if WG members could be involved to a greater extent in the preparation of WG meetings, both by contributing directly to the agendas or by providing inputs with regards to documents presented during the meetings. This member suggested to reconsider the process by discussing more extensively the topics for discussion prior to sending out documents for approval by the WG, to which Mr von Moltke recalled that documents are presented during the meetings as draft ones only and can of course still be amended or reconsidered to take into consideration members' view. The same member suggested – as regards the WG's mandate of fostering the use of €STR in a diverse range of financial products – to start by determining a list of financial products where WG members would deem suitable to act upon and then consider a recommendation, so as to allow WG members to liaise with their customers and assess their needs as best.

Lastly, a few members shared views on specific points of the book of work. Mr Wilson (Chair's office) recalled that comments from members are still welcomed and that an amended version will be circulated.

3. Discussion on second phase of RFR first for cross currency derivatives with a USD LIBOR leg

Mr Alex Wilson (Chair's office) recalled that a previous survey assessing the willingness of WG members to issue a recommendation on this item had been conducted, which did not meet the quorum requirements although supported to a large extent by members. Mr Wilson also mentioned that the SOFR/€STR pair was increasingly adopted by the market and further explained that an [announcement](#) had been published the day before this meeting (i.e. *December 2nd*) by the CFTC MRAC¹ as part of the RFR First initiative, suggesting the 13th of December as a date for initiative to capture any other cross currency pairs referencing USD LIBOR in anticipation of the end of the year. Mr Wilson asked members if they would be willing to issue a recommendation to support market participants to adopt the SOFR/€STR pair as soon as they would be ready, also asking them if it would be suitable to make a specific recommendation in line with the latest CFTC MRAC's announcements.

Some members shared views, arguing that the situation is different in Europe than in the US, making the case that EURIBOR is not to be discontinued and remains a very large market. These members argued that market participants could trade on both markets depending on clients' needs, flagging that there might not really be a need for a specific recommendation on this topic. The same members also recalled the little liquidity in €STR market so far and stated that the market is likely to shift towards this direction with no need for such a specific recommendation.

On the contrary, the ECB representative recalled that a move towards RFR vs RFR in currency pairs would be in line with the FSB guidance and that issuing a recommendation on behalf of the WG could be helpful and provide the needed incentive for the market to shift towards full adoption of risk-free rates. This call for action was echoed by other members that flagged the need to act as – in their understanding – relying solely on the market shifting naturally would not allow for a coordinated shift across the globe. One member agreed with the need not to over rely on EURIBOR in accordance with the FSB guidance but argued that there would be a need for EURIBOR to remain a very active market, especially in cash markets.

Mr von Moltke (chair) suggested to run a voting procedure within the WG, to which WG members agreed.

¹ Market Risk Advisory Committee within the Commodity Futures Trading Commission

4. Update on the letter sent to EC on designation of GBP & JPY LIBOR process

Mr Lelio Lapresa (ESMA Secretariat) recalled the context of this workstream and presented the results of a data collection exercise undertaken in order to support the letter sent by Mr von Moltke (Chair) on behalf of the WG to the EC with regards to the potential designation of statutory replacement rates for GBP & JPY LIBOR “tough legacy” contracts, following up on previous work conducted by the *ad hoc* Task Force set within the WG.

Mr Tilman Lueder (Head of EC’s securities markets unit) explained that, prior to taking a view on the need for designation of a statutory successor of GBP and JPY LIBOR, the EC would need to assess the systemic impact of the cessation of those rates on the European financial sector. Mr Lueder also stated that any statutory replacement could designate either the synthetic rate or a calculation formula, making the case that legal certainty (consistency between EU and international approaches) might best be served if the EC designation covered the synthetic rate, at least as long as such a rate was published pursuant to a legal mandate by a regulator. Mr Lueder expressed some hesitation in designating a third country forward-looking rate, if such a rate was not considered sufficiently robust.

Members reiterated their request for a legislative solution to tackle legal uncertainty in tough legacy contracts, recalling the need for action as most LIBOR rates will be deemed unrepresentative at year end. Some members shared a few concerns on the practical details of action to be possibly undertaken by the EC, with regards to timing (i.e. foreseen date of the possible implementing decision) or possible conflicts arising between different governing laws and potential overlaps, flagging the need for the EC to ensure consistency in the market to avoid operational challenges and disruptions. Members shared views on their preferred approach with regards to the designation of the rates which would serve as statutory replacement, showing preference for the formulaic approach (i.e. forward-looking term rate + credit spread adjustment).

Mr Lueder finally explained that more data and views from WG members might be needed to further support the EC’s decision-making process and suggested that a new survey be circulated among WG members to that end. Mr von Moltke (Chair) suggested to create a legal task force, asking members to reach out to ESMA Secretariat if they would be interested to join.

5. Presentation of the WG statement regarding the cessation of representative LIBORs at year end

Mr Alex Wilson (Chair’s office) walked members through the draft statement and explained that the next steps would be to publish on ESMA’s website, also counting on support from the public sector. One member asked for the statement to be slightly amended.

Mr von Moltke (Chair) encouraged members to provide any fatal flaw comments to the Chair’s office.

6. Initiation of discussion on a potential WG recommendation on multi-currency loan facilities use of €STR

In light of discussions held earlier during the meeting with regards to the proposed book of work and due to time constraints, it was agreed to put this item on hold and to start by determining a list of financial products where WG members would deem suitable to act upon prior to considering a draft recommendation on a specific asset class or product.

Mr von Moltke (Chair) proposed to launch a sub-group to discuss in more detail the potential need for a WG recommendation aiming at fostering the use of €STR in multi-currency loan facilities.

7. Presentation of a discussion paper on exceptions to cessation of new use of USD LIBOR after the end of 2021

Ms Marjolein de Jong-Knol (ING) recalled the global context and walked members through a presentation, emphasizing a potential need for EU guidance for the upcoming hard stop of new use of USD LIBOR in contracts from January 1st 2022 with only limited exceptions as in other jurisdictions. Ms de Jong-Knol & Mr von Moltke (Chair) opened the floor to WG members to discuss potential issues observed in the market that would not be captured in the proposed set of exceptions but would nonetheless require attention from a customer care and market stability perspective and to EU official sector institutions, seeking their views on a possible short grace period.

Some members echoed the concerns shared by Ms de Jong-Knol, being (1) lack of SOFR-RFR liquidity for certain emerging market currencies in the cross currency swap market, (2) pipeline deals not concluded before year-end 2022, (3) clients not being ready for USD LIBOR alternatives, and (4) lack of clear definition of legally enforceable contracts (especially with regards to uncommitted facilities entered into before year-end 2021); that some grace period/guidance may be required for solving these issues. One participant flagging that its institution had no intention to stop activities in emerging markets or for market-making purpose, another explaining that the situation was driven by the fact that there would be no adequate replacement rate for USD LIBOR. One member further explained that there seemed to be currently a lot of confusion in the market with regards to what effectively constitutes a new loan. The ECB representative however explained that EU public sector institutions had already issued a [joint statement](#) earlier in the year and that it would be difficult to deviate from this previous guidance, also bearing in mind the need for consistency with solutions enforced in the US. Ms de Jong-Knol agreed that this EU public sector initiative, and the reiteration of the message through the WG's statement (agenda item 5) are helpful, especially for those market participant/segments that have not dealt with IBOR transition before and may otherwise not be ready for USD LIBOR alternatives in time. Mr von Moltke (Chair) concluded that EU supervised entities are encouraged to further discuss adoption of exceptions/concerns/market developments with their supervisors.

8. Discussion on proposed amendments to WG terms of reference

Mr Lelio Lapresa (ESMA Secretariat) presented the proposed amendments to the WG's Terms of Reference, explaining that the changes would aim at updating the official composition of the WG – following the call for interests held over summer – and modifying accordingly the governance section so as to capture any possible conflicts of interest that might arise due to the accrued diversity in the WG. Mr Lapresa also walked members through the proposed amendments with regards to the voting procedure to improve transparency & develop good practices. Members welcomed the proposed changes and suggested a few extra amendments, with regards to abstentions and quorum.

Due to time constraints and to allow members to provide written comments and share views, Mr von Moltke (Chair) suggested that the voting procedure amendments of the ToR would be discussed and agreed upon at the next meeting, proposing to move forward already with the amendments on composition and conflicts of interest. Accordingly, it was agreed to publish a first amended version of the ToR on ESMA's website, for now including only these changes and carving out considerations on the voting procedure. Should any written procedure be engaged prior to the next meeting, it was agreed not to count the abstentions as supportive votes and to stick to the current wording of the ToR applied to the effective votes only.

9. AOB

No AOB was raised.



List of participants

Participant's organisation

Name of participant

Chairperson

Deutsche Bank

Mr James von Moltke

Chair's office

Deutsche Bank

Mr Simon Goodwin

Deutsche Bank

Ms Queenie Choong

Deutsche Bank

Mr Alex Wilson

Deutsche Bank

Mr Dominik Neundoerfer

Voting members

AXA Investment Managers

Mr Alexandre Papadacci

Banco Sabadell

Ms Marta Riveira Cazorla

Bank of Ireland

Mr Barry Moran

Barclays

Mr Joseph McQuade

BBVA

Ms Ana Rubio

BBVA

Mr Ignacio Ollero

BME Clearing

Mr Emilio Gamarra Mompeán

BME Clearing

Ms Monica Blanco Vieito

BNP Paribas

Ms Dominique Le Masson

BNP Paribas

Mr David Gorans

BNP Paribas

Ms Isabelle Paresys

BNP Paribas

Mr Xavier Aublin

BPCE/Natixis

Mr Olivier Hubert

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Mr Grégoire de Clarens

CaixaBank, S.A.

Mr Francesc Xavier Combis

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Mr Dan Gottlander

Crédit Agricole

Ms Florence Mariotti

Crédit Agricole

Mr Yann Marhic

Crédit Suisse

Zsolt Szollosi

Deutsche Bank

Mr Juergen Sklarczyk

Deutsche Bank

Mr Christian Gau

DZ Bank

Mr Michael Schneider

Erste Group

Mr Rene Brunner

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Mr Andreas Franke

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European Investment Bank
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Intesa Sanpaolo
KfW Bankengruppe
LBBW
LCH Group
Nordea
Santander
Santander
Société Générale
Société Générale
Société Générale
UniCredit Bank

Non-voting members

European Money Markets Institute
European Money Markets Institute
International Capital Market Association
International Swaps and Derivatives Association
Loan Market Association

Observers

European Central Bank
European Central Bank
European Central Bank
European Central Bank
European Commission
European Commission
European Commission
European Commission
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Mr Thomas Schroeder
Mr Fabio Mandirola
Mr Steven Hamilton
Mr Matthew Horton
Mr Jaap Kes
Ms Marjolein de Jong-Knol
Ms Stephanie Broks
Ms Maria Cristina Lege
Mr Ingo Ostermann
Mr Jan Misch
Mr Davide Tortora
Ms Jaana Sulin
Mr Santiago Lobato Piñana
Ms Monica Lopez-Monis Gallego
Mr Grégory Albertini
Mr Stephane Cuny
Mr Mathieu Casadevall
Mr Umberto Crespi

Mr Jakobus Feldkamp
Mr. Petra de Deyne
Ms Katie Kelly
Mr Rick Sandilands
Ms Kam Hessling

Mr Helmut Wacket
Mr Pascal Nicoloso
Ms Anne-Lise Nguyen
Mr Vladimir Tsonchev
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Ms Iliana Lani
Mr Randy Priem



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