Teleconference of the working group on euro risk-free rates

Thursday, 01 July 2021, 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, expressing appreciation for the work undertaken by the working group on euro risk-free rates (WG) so far and particularly by the ING team and the ECB team. Mr von Moltke reiterated the foundational importance of the publication of the recommendations by the WG on EURIBOR fallback trigger events and €STR-based EURIBOR fallbacks in May, as well as the criticality of the upcoming discontinuation of most of LIBOR settings and of EONIA at the end of the year.

Mr von Moltke informed the WG that the Bayerische Landesbank Group has left the WG and introduced the agenda for the meeting.

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 Term of Reference

Ms Iliana Lani (ESMA) presented the new Terms of Reference of the WG circulated to the members before the meeting, explaining that this version was substantively similar to the one presented at the previous working group meeting on 11 May 2021, with some amendments included for clarification.

No objections were raised and Mr von Moltke confirmed the new Terms of Reference as approved and that they would be published on ESMA's website, in the section dedicated to the WG.

3. Update on the call for interest for new members

Ms Lani introduced the draft call for interest (and application template) for the enlargement of the WG to new members. These documents were circulated to the members before the meeting.

The objective of the proposed call for interest is to identify new members to diversify the composition of the WG and capture additional market participants' perspective. The selection process will give priority to market participants active in the previous sub-groups. The call for interest will be open until 30 July, so that candidates will be able to apply for the membership of the WG during this period of time.

Mr von Moltke opened the floor for questions and comments and provided WG members a week to provide further written comments.

One member asked whether private companies, such as asset managers, would be covered by the call for interest. Mr von Moltke replied that they would be considered. A second member asked if non-wholesale end user associations would be considered in the call for interest. Ms Lani mentioned that the priority would be to include non-banks that were active in the subgroups of the WG, but this would not prevent the WG to invite other entities to specific discussions.

Another member asked about whether the ambassadors' approach, previously created by the WG, was still in place, and this was confirmed by Ms Lani. A different member stressed the importance of ambassadors particularly in the outreach to market participants or associations which have a national-focus rather than EU scope and suggested that associations should be welcomed in the WG. Another member argued that regulations, court decisions and the use of interest rates is different across EU Member States. For that reasons, the ambassadors' approach may be more effective, as having consumer associations as members of the WG may lead to focus the discussion on local problems rather than on common European objectives.

Mr von Moltke informed that, following the one-week written procedure, the call for interest will be published on ESMA's website, in the section dedicated to the WG.

4. Presentation by Société Générale on legacy transactions

Mr Stephane Cuny (Société Générale) introduced the presentation by Société Générale that was circulated to the members before the meeting. The presentation suggests possible solutions to manage transactions without fallback provisions when clients are not responsive or want to wait until end of 2021 to renegotiate.

Mr Cuny argued that, if no answer is received from clients before 30 September 2021, banks may consider the following approach: for EONIA the strategy is to switch without bilateral agreement the transactions to "€STR + 8,5bps", while for LIBOR the intention is to let the transactions continue on synthetic LIBORs where they do exist or, if no synthetic LIBOR is in place, to switch the transactions without bilateral agreement to the ISDA fallback rate.

Mr von Moltke opened the floor for questions and comments. One member asked how this approach can be enforced, as there are some legal risks attached to it. The same member also asked what could happen in 2022 when there will be USD refinancing issues as no clear successor of USD LIBOR, although clients demand a forward-looking replacement rate.

A second member had concerns from a legal perspective and, in relation to LIBOR, asked whether it would be better to use ISDA fallbacks also in cases where the synthetic LIBOR exists, since the use of synthetic LIBOR only offers a temporary solution; the same member also noted that guidance from the FCA on the matter would be helpful. Mr Tilman Lueder (European Commission) explained the difference between the statutory replacement framework in the EU and US and the continuity/synthetic approach adopted in the UK. Mr Lueder argued that the statutory replacement rate of the EU will not cover contracts under English (and New York) law, so this must be considered before taking any decision.

Mr Cuny argued that it is important that banks have guidance to be able to act consistently across the market so as to minimise legal risk and suggested to use a pro-bono advice from a legal firm. Mr von Moltke mentioned that an articulation of good practices can be useful to ensure that consumers are treated fairly and transparently.

A member mentioned that the risk of contract frustration is not the same for LIBOR and EONIA, and the approach followed should consider this aspect. The same member noted that for LIBOR, ISDA fallbacks should not be considered unless the contract includes a pre-cessation trigger event, as LIBOR will still be published in its synthetic version. The same member mentioned that in the US there is a safe harbour for contracts under New York law subject to the switch, and a similar safe harbour should be considered in the EU. In relation to EONIA, the same member mentioned that the European Commission should consider exercising its new statutory replacement power in relation to EONIA contracts.

Another member asked the European Commission if it may consider using the new statutory replacement power in relation to some of the contracts subject to Member States' laws in order to minimise the legal and litigation risk. Mr Lueder said that the market participants should clarify if it is fine that the UK FCA synthetic rate can cover contracts in the EU too or whether this is not feasible. If this is not feasible, the European Commission can use the new statutory replacement power, which has similar effects as a safe harbour in the US. Mr Lueder clarified that the European Commission is waiting for input by the private sector.

Mr von Moltke expressed an institutional preference for action by the European Commission and suggested that the WG collect views on this during the next weeks. One member supported the possible actions by the European Commission. Another member said that the transition from EONIA to €STR should not pose material risk in the absence of clients' response, whereas the use of synthetic LIBOR does pose clear risks.

Mr von Moltke proposed to form a small group to take the issue forward. Mr Lueder explained that proposed statutory replacement rates by the European Commission will be aligned with the recommendation on the replacement rate provided by the relevant working group, so any recommendation of the EUR RFR WG should not contradict the recommendations on other currencies' replacement rates as given by the corresponding working groups because this would create an issue for the functioning of the statutory replacement rate under EU law. Overlapping recommendations should be avoided.

5. Proposal to consult on €STR first initiative

Mr. Alex Wilson (Deutsche Bank) introduced the €STR first initiative, which could take the form of a recommendation from the EUR RFR Working Group for interdealer brokers to switch from EONIA pricing and trading conventions to €STR from a date to be agreed, potentially in line with the CCP switch from EONIA to €STR planned for 15 October 2021.

The next steps of the €STR First initiative would be the following. The secretariat (ESMA) can conduct a survey of voting WG members to: understand the level of support for this proposal, agree on inclusion of a specify product type or include all products, and, if applicable, understand views on a date for an €STR First initiative.

Mr von Moltke opened the floor for questions and comments. One member mentioned that we should support this initiative, but the WG should be clear that this does not affect EURIBOR contracts because it focuses only on the EONIA to €STR transition. Mr Jean-Louis Schirmann (EMMI) informed the WG that EMMI already took actions to promote the switch from EONIA to €STR and EMMI would support this initiative by the WG. A member suggested also to use the ambassadors to discuss pending issues also with the national public sector, if needed.

Another member questioned about any significant upside which the initiative would achieve. Mr Wilson clarified that agreeing on a common switch date (i.e. 15 October) will support a good transition ahead of year end and would allow for buffer period between 15 October 2021 and year end to tackle any pending issues.

Several members supported the proposed initiative and suggested timeline, noting that there might be operational issues related to the switch which can be more easily addressed recommending a common switch date before year end.

Mr von Moltke concluded confirming that the WG supported the €STR first initiative for the 15 October 2021 and that ESMA will launch a short survey on the text of the €STR first initiative after the meeting.

6. Swiss National Bank Cross Currency Swaps Proposal

Mr. Wilson explained to members that the Swiss National Bank (SNB), as the co-Chair of the National Working Group on Swiss Franc Reference Rates, is currently discussing the recommendation of a common start date for a switch of quoting conventions for the GBP, USD, EUR, JPY, and CHF LIBOR legs of cross-currency swaps in the interdealer market to RFRs (e.g. SONIA, SOFR, €STR, TONAR, SARON).

The SNB is coordinating with the WG and the working groups in the US, UK and Japan to define a common date for this switch, and either the 7 or 21 September 2021 is proposed.

Mr Wilson proposed to launch, after the meeting, a survey among the members to understand support for a recommendation for a common start date to switch quoting of cross-currency swaps from LIBOR to the alternative RFR with a switch date for the 21 September 2021.

Mr Wilson asked also whether this initiative should additionally cover EURIBOR when used in cross-currency swaps or the WG should support the switch to risk-free rates only for non-euro denominated cross-currency swaps.

Mr von Moltke opened the floor for questions and comments. One member said that the issue of substituting EURIBOR with €STR in cross-currency swaps depends on the preference of the clients. Another member expressed the support for the switch to risk-free rates for non-euro denominated cross-currency swaps and said that the Euro market will follow the deepest liquidity and best price so we should monitor liquidity development in €STR based single currency swap markets.

A different member commented that members might perform an internal check to assess the volumes of non-euro cross-currency swaps and that the topic should be also discussed with the other currencies working groups at the International RFR WG coordination meeting scheduled on 15 July 2021.

Mr Wilson requested any objections to the view that it is too early for the WG to make recommendations in relation to the use of EURIBOR / €STR in cross-currency swaps, and the proposal by the WG will cover only other currency pairs. No objections were received. He also confirmed the topic will be discussed at the coordination meeting on 15 July 2021.

Mr von Moltke clarified that a survey will be launched among members to support the proposal by the SNB, while waiting to make any recommendation on the euro market depending on market developments.

7. AOB

Mr von Moltke informed the WG that a survey to collect ideas for the WG work plan 2022-2023 will be launched in the coming weeks.

Mr Rick Sandilands (ISDA) mentioned the progress of ISDA as regards the dedicated EONIA protocol in relation to collateral agreement. ISDA already published in 2020 bilateral agreement with the same effect, but an EONIA to €STR protocol for collateral agreement was considered as a practical tool to further foster the transition in the absence of a statutory replacement. This new protocol should be ready in one month, and it was confirmed that this protocol will not cover collateral agreement subject to other master agreements. Mr Sandilands argued also that it would be critical to understand if the European Commission is planning to use the statutory replacement power in relation to EONIA discontinuation, as this would be relevant also for ISDA's work.

List of participants

Participant's organisation	Name of participant
Chairperson	
Deutsche Bank	Mr James von Moltke
Voting members	
Bank of Ireland	Mr Barry Moran
Barclays	Mr Joseph McQuade
BBVA	Ms Ana Rubio
BBVA	Mr Ignacio Ollero
BNP Paribas	Ms Dominique Le Masson
BNP Paribas	Mr David Gorans
BPCE/Natixis	Mr Olivier Hubert
CaixaBank, S.A.	Mr Javier Pano
Crédit Agricole	Ms Florence Mariotti
Crédit Agricole	Mr Yann Marhic
Deutsche Bank	Mr Alex Wilson
Deutsche Bank	Mr Juergen Sklarczyk
DZ Bank	Mr Michael Schneider
Erste	Mr Neil McLeod
Erste	Mr Rene Brunner
Eurobank SA	Mr Dimitris Psichogios
European Investment Bank	Mr Thomas Schroeder
Generali	Mr Ivan Bondino
HSBC	Mr Geoffroy Bertran
HSBC	Ms Milka Dinkova
ING Bank	Mr Jaap Kes
Intesa Sanpaolo	Ms Maria Cristina Lege
KfW Bankengruppe	Mr Ingo Ostermann
KfW Bankengruppe	Mr Markus Schmidtchen
LBBW	Mr Jan Misch
Santander	Mr Javier Pareja
Santander	Ms Monica Lopez-Monis Gallego
Société Générale	Mr Stephane Cuny
Société Générale	Mr Mathieu Casadevall
UniCredit Bank	Mr Umberto Crespi
Non-voting members	

European Money Markets Institute	Mr Jean-Louis Schirmann
European Money Markets Institute	Mr. Petra de Deyne
International Capital Market Association	Ms Katie Kelly
International Swaps and Derivatives Association	Mr Rick Sandilands
Loan Market Association	Ms Kam Mahil

Observers

European Central Bank	Mr Thomas Vlassopoulos
European Central Bank	Mr Pascal Nicoloso
European Central Bank	Mr Vladimir Tsonchev
European Commission	Ms Alessandra Atripaldi
European Commission	Mr Rik Hansen
European Commission	Mr Tilman Lueder
European Securities and Markets Authority	Ms Iliana Lani
Financial Services and Markets Authority	Mr Randy Priem

Secretariat

European Securities and Markets Authority	Mr Lelio Lapresa
European Securities and Markets Authority	Mr Michele Mazzoni
European Securities and Markets Authority	Ms Chantal Sourlas