

Terms of reference for the Working Group on Euro Risk-Free Rates – February 2022

1 Introduction

The Financial Stability Board's 2014 report on interest rate benchmark reform recommended the development and adoption of nearly risk-free reference rates ("RFRs") as alternatives to existing 'IBOR' benchmarks.

In response to this recommendation, in September 2017 the European Central Bank (ECB), the Financial Services and Markets Authority (FSMA), the European Securities and Markets Authority (ESMA) and the European Commission launched the Working Group on Euro Risk-Free Rates (the "Working Group"). The Working Group was tasked with the identification and adoption of RFRs to serve as a basis for an alternative to the current benchmarks used in a variety of financial instruments and contracts in the euro area. Similar groups to the Working Group were established in other jurisdictions to recommend RFRs for other IBORs.

The Working Group completed its initial mandate ¹ in May 2021 when its main deliverables were achieved, including:

- Recommending that the euro short-term rate (€STR) should be used as the risk-free rate for the euro area (September 2018)
- Issuing the guiding principles for fallback provisions in new contracts for euro-denominated cash products (January 2019)
- Recommending a transition path from EONIA to €STR and €STR-based forward-looking term structure methodology (March 2019)
- Issuing recommendations: on (i) the EONIA to €STR legal action plan (July 2019), (ii) swaptions affected by the central clearing counterparties' discounting transition from EONIA to €STR (June 2020) and (iii) EURIBOR fallback trigger events and on €STR-based EURIBOR fallback rates (May 2021)
- Issuing reports concerning: the impact of the transition from EONIA to €STR on cash and derivatives products; the risk management implications of the transition from EONIA to €STR and the introduction of €STR-based fallbacks for

¹ https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/shared/pdf/2017_11_29_terms_of_reference.pdf

EURIBOR; the financial accounting implications of the transition from EONIA to €STR and the introduction of €STR-based fallbacks for EURIBOR; the high-level recommendations for fallback provisions in contracts for cash products and derivatives transactions referencing EURIBOR; and €STR fallback arrangements (August – November 2019)

While acknowledging the crucial milestones that the Working Group already achieved under its initial mandate, the ECB, ESMA and the European Commission agree on the need to maintain the Working Group under an updated mandate and terms of reference in order to support the full delivery of interest rate reform in the EU. To this end, the deliverables, composition and administration of the Working Group have been updated.

2 Updated mandate of the Working Group on Euro Risk-Free Rates

Following the publication of the recommendations on EURIBOR fallback trigger events and €STR-based EURIBOR fallback rates, the Working Group is expected to foster interest rate reform in the EU by:

- Fostering the use of €STR in a diverse range of financial products, identifying potential impediments and recommending workable solutions, including by proposing best practices, and assessing the evolution of the use of interest rates in the EU
- Assessing the availability of EURIBOR fallback rates to be published by one or more administrators
- Identifying potential impediments to the timely adoption of EURIBOR fallback provisions by EU supervised entities and putting forward recommendations and best practices to assist in overcoming such impediments
- Identifying potential issues related to the impact of LIBOR discontinuation in the EU and recommending viable solutions
- Maintaining a regular newsletter to inform market participants and the general public of its work with the aim of raising awareness and educating users about interest rates reform in the EU. In this respect, Working Group members are also expected to act as ambassadors of the Working Group and its recommendations, liaise with other parties (peers, associations, other interested groups) and participate in outreach events
- Coordinating with similar working groups in other jurisdictions on cross currency issues

3 Composition of the Working Group on Euro Risk-Free Rates

The Working Group is an industry group chaired by a representative from the private sector. It comprises senior officials representing major credit institutions, market infrastructures and investment funds with relevant expertise. Firms are granted membership of the Working Group only at the invitation of ESMA, ECB and European Commission, with individual Working Group members being appointed by member firms. The choice of private sector members is made so as to ensure broad geographical coverage of the euro area.

Representatives from ESMA, ECB and European Commission participate in the Working Group as observers and ESMA provides its secretariat ².

The Working Group is composed of 29 members³. The European Money Market Institute (EMMI) is invited to participate in the Working Group as a non-voting member, in view of its role as an administrator of EURIBOR. There are four other non-voting members which are all market associations (ICMA, EFAMA, ISDA, LMA). The secretariat may decide not to invite certain members (either voting or non-voting) to specific meetings or discussions of the Working Group or exclude voting members from expressing their vote on particular matters if potential or actual conflict of interests may arise or may be perceived to arise, also taking into consideration the interests of the group of companies the Working Group member is part of.

The Working Group is expected to reach out to and gather feedback from a wide range of stakeholder groups. The members of the public institutions involved may facilitate this outreach process by hosting roundtable meetings or other events at the request of the Working Group.

The Working Group also reserves the right to use the following approaches:

- Establishment of sub-groups as necessary to focus on specific technical issues, whether market-specific, sector-specific or cross-cutting
- Use of professional services firms on a pro bono basis

4 Governance of the Working Group

Participation in the Working Group will not give rise to remuneration or other

² The secretariat of the Working Group was facilitated by the ECB from the time of its creation until May 2021, when ESMA took over the secretariat responsibilities. Links to prior Working Group materials, including milestones, recommendations, meeting agendas and minutes are available on the ECB's dedicated webpage. Any information thereafter may be reviewed at the webpage of the Working Group as provided by ESMA.

³ Eight new members having joined in September 2021 following a call of expression of interest aimed at further diversifying the composition of the Working Group.

emoluments. For voting and decision-making, each member firm entitled to vote (i.e. not excluded due to potential or actual conflicts) will have one vote, including the chairing member. Observers and non-voting members will not be eligible to vote. Decisions and recommendations of the Working Group should be reached by consensus, if possible, or otherwise by a two-thirds majority where necessary. When justified by particular circumstances, a vote may be taken by written procedure. In such case, a failure to vote within the specified time shall be considered as a vote in favour of the proposal. When launching a vote by written procedure, the accompanying notice circulated by the secretariat will include a reminder of how a failure to vote will be counted.

The Working Group's recommendations will not commit private sector firms nor public institutions to specific actions. The Working Group's recommendations and publications will represent the views of its private-sector members only and should not be taken as approved by, or even as representing, the views of the public institutions concerned.

ESMA will publish these terms of reference, the member chairing the Working Group, institutional membership of the Working Group, meeting agendas and minutes, once approved, on its public website.

Any information disclosed or opinions expressed during Working Group meetings will be treated as confidential unless and until the Working Group has authorised their public release. Working Group members may be exposed to sensitive and potentially material non-public information in the course of their work. It is understood that Working Group members' staff may have to see some documents related to the Working Group. Nonetheless any unnecessary involvement of third parties in handling this material is strongly discouraged. Each individual member is responsible for the confidentiality and sensitivity associated with the Working Group and the documents in question, also when that member discloses such information in any way to any third party.

5 Competition law

It is the responsibility of Working Group members to ensure that they understand their responsibilities under all applicable competition laws, including EU competition law and comply with these legal requirements. In this regard, Working Group members acknowledge the "Competition Law Compliance Guidelines"⁴ as applicable rules for their participation in the Working Group. To the extent that any individual is unclear of these responsibilities, they should consult the legal and/or compliance teams at their respective institution for further guidance.

⁴ Working Group on Euro Risk-Free Rates - Competition Law Compliance Guidelines (Update 17 May 2018): https://www.esma.europa.eu/sites/default/files/library/eu_competition_law_guidelines_for_the_working_group_on_euro_risk-free_rates.pdf