EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS
The Co-operative Difference : Sustainability, Proximity, Governance

Brussels, 18 May 2021

MvB/TC

EACB Key Messages
regarding
European Commission targeted consultation on the designation of a statutory replacement rate for CHF LIBOR

The EACB welcomes the opportunity to provide its feedback to the European Commission's targeted consultation on the designation of a statutory replacement rate for CHF LIBOR by way of an implementing act.

Our members support the general approach proposed by the European Commission to replace 3-month (3M) CHF LIBOR in the event of cessation with the 3M compounded SARON based on the 'last reset' methodology + 0,31 bps spread adjustment according to the ISDA methodology. However, in order to ensure a smooth process and provide for consistency and legal certainty, the EACB would also like to highlight the below key messages:-

- **Cut-off date for application of the implementing act:** the designated replacement rate should apply to all CHF LIBOR linked contracts, regardless when they were concluded. If this is not feasible, then we would at least deem appropriate as a cut-off date the cessation announcement of 5 March 2021 by the UK Financial Conduct Authority, marking the future official end of CHF LIBOR for all market participants. This date is particularly relevant since such change has since been communicated in the contractual arrangements in accordance with the contingency plans.
- **Fixed spread-adjustment:** We believe that the spread adjustment should be directly fixed in the implementing act, instead of a mere reference to the ISDA/Bloomberg website. That said, it should be clarified that the optional waiver of the inclusion of the spread is always possible if it is not economically disadvantageous for the customer.
- **Consistency across LIBOR tenors and currencies**: the implementing act should not be limited to the 3M CHF LIBOR only, but consistency requires the same decision to be extended to other CHF LIBOR tenors irrespective whether the volume linked to such other tenors is significant or not. It could also be feasible to apply consistency across other LIBOR currency benchmarks (e.g USD LIBOR) and EONIA.
- **Scope of financial contracts/instruments:** We note the potential for financial market disruptions also in the area of other financial instruments (such as bonds) and even derivatives transactions because the conversion of such contracts is similarly complex and legally uncertain. Consequently, we believe that the scope of the statutory replacement rate should be extended to all possible financial contracts and financial instruments.
- **Compatibility with consumer protection law:** Our members do not see an issue with the proposed implementing act and the relevant consumer protection law (e.g. Mortgage Credit Directive, Consumer Credit Directive, Directive 93/13/EEC). However we think it is important that the following requirements are fulfilled in order to be able to fully meet the relevant civil law requirements and for contract parties to verify their interest rate: (a) the interest rate

should be made available by the administrator in a manner, that gives central and public access e.g. as is the case since 30 March 2021 by the SIX Index Data Centre; and (b) the relevant spread-adjustment should be definitely fixed in the implementing act. If the above is achieved, then banks would additionally be able to provide a proper implementation of their IT systems and to launch an appropriate information campaign towards clients.

Contact:

The EACB trusts that its comments will be taken into account.

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