

Brussels, 30 August 2021

MvB/TC

EACB position on draft Commission Implementing Regulation on the designation of a statutory replacement for certain settings of CHF LIBOR

The European Association of Co-operative Banks (EACB) welcomes the opportunity to comment on the draft implementing regulation on the designation of a statutory replacement for certain settings of CHF LIBOR as published by the European Commission on 3 August 2021.

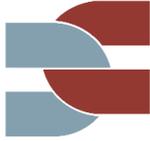
Our members had already fully supported by way of a [public statement](#) dated 11 June 2021, the designation of SARON compound rates according to the "last reset" methodology and a fixed spread adjustment as statutory replacement to CHF LIBOR. We thus reiterate our support in this regard and emphasise that this is the only solution to avoid the risk of contract frustration and significant market disruption, as most existing contracts (the majority concluded before 2010) do not include provisions for the event of LIBOR cessation.

We also appreciate that several concerns raised in our public statement have been included in the draft implementing regulation, namely:-

- **Cut-off date of 5 March 2021 (UK FCA cessation announcement date) used for the spread adjustment value (SAV) calculation;**
- **The SAV is directly fixed in the implementing act, and it is made clear that the SAV is to be published by Bloomberg as benchmark administrator; and**
- **SARON compound rate on last reset methodology plus fixed SAV is now extended to other CHF LIBOR tenors (1-month, 6-month, 12-month).**

We also note that our members that are party to CHF LIBOR contracts must inform their counterparts of the change in the rate and the effects on their contracts in writing not later than 30 days before the statutory replacement rate starts to apply, but we consider this to be a reasonable requirement.

The main discrepancy we noted is that recital 13 (which states that the statutory replacement applies to only "*products such as savings accounts, mortgages and loans, including consumer credit agreements and small business loans, governed by the laws of one of the Union Member States, which do not contain suitable fall-back provisions*") is narrower in scope compared to Article 1(1) of the implementing regulation (which states that the "*rates are designated as replacement for the CHF LIBOR in references to CHF LIBOR in in contracts and financial instruments as referred to in Article 23a of Regulation (EU) 2016/1011*").



The EACB supports the material scope under Article 1(1) of the implementing regulation and would thus advocate for recital 13 to be clarified in order to avoid any misinterpretations. In parallel to the wording in recital 13, we also would like to share our understanding that **SARON as published in the implementing regulation can also be used as a replacement rate in case of cessation of contracts referencing CHF LIBOR, that have already foreseen (suitable) fall-back provisions.**

Finally due to the imminent cessation of CHF LIBOR and in order to maintain stable and functional financial markets, we support a **timely publication of the final implementing regulation in the Official Journal of the European Union ideally before Q4 2021.**

Contact:

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

For further information or questions on this paper, please contact:

- Ms Marieke van Berkel, Head of Department (Marieke.vanBerkel@eachb.coop)
- Ms Tamara Chetcuti, Senior Adviser, Financial markets (Tamara.Chetcuti@eachb.coop)