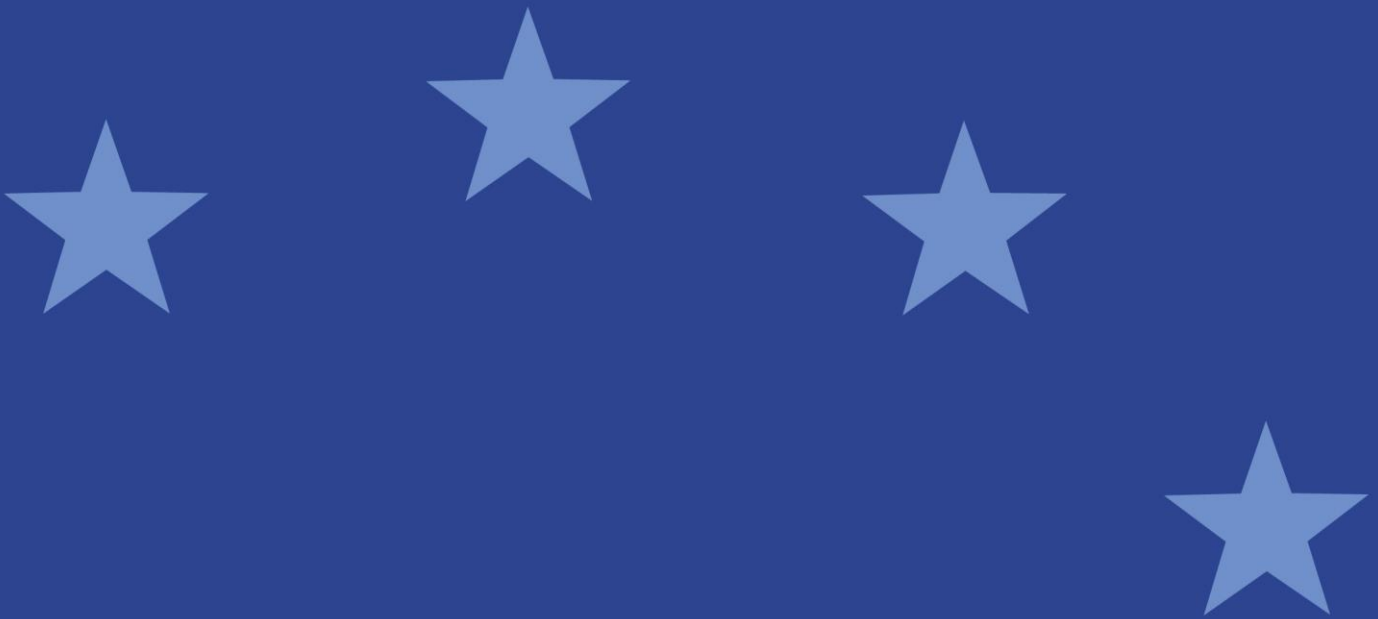


Response Form to the Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition



Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **2 September 2021**.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA_QUESTION _RFRS_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
5. When you have drafted your response, name your response form according to the following convention: ESMA_RFRS_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_RFRS_ABCD_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition").

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading [Legal Notice](#).



Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties of OTC derivatives transactions which are subject to the clearing obligation or to the derivative trading obligation as well as from CCPs and Trading Venues.



General information about respondent

| | |
|--------------------------------------|--|
| Name of the company / organisation | Eurex Group |
| Activity | Central Counterparty and Regulated Markets/Exchanges/Trading Systems |
| Are you representing an association? | <input type="checkbox"/> |
| Country/Region | Germany |



Questions

General comments

Q1 : Are there any general comments you would need to raise?

<ESMA_QUESTION_RFRS_1>

Eurex Group (“Eurex”), in particular its CCP Eurex Clearing and its derivatives exchange Eurex, welcomes the opportunity to respond to ESMA’s consultation on the clearing and derivative trading obligations in view of the benchmark transition. After almost a decade of reforming the IBORs, the transition from old benchmarks to new risk-free reference rates (RFRs) until the end of the year is well underway, a could be considered one of the largest changes in EU capital markets since the introduction of the Euro.

On our end, after launching €STR overnight index swaps in November 2019, Eurex completed the EONIA-€STR discounting and price alignment interest switch in July 2020 in coordination with other euro clearing CCPs. That coordination will continue later this year, when Eurex and other CCPs will implement a conversion to €STR for transactions referencing the EONIA benchmark starting on October 15, 2021 and executed over the following weekend. In addition, remaining clearing legacy IRD trades will be converted to RFR OIS trades for a) CHF and JPY LIBOR starting on December 3, 2021 and executed over the following weekend and b) GBP LIBOR starting on December 17, 2021 and executed over the following weekend.

Against this background, we would like to express our general support of the efforts made by both authorities and the industry in relation to the preparations of the IBOR reform. We therefore generally support ESMA’s proposals to adapt the clearing and trading mandates to reflect the transition to the RFRs before the GBP and JPY LIBORs and EONIA cease to be produced at the end of the year.

<ESMA_QUESTION_RFRS_1>

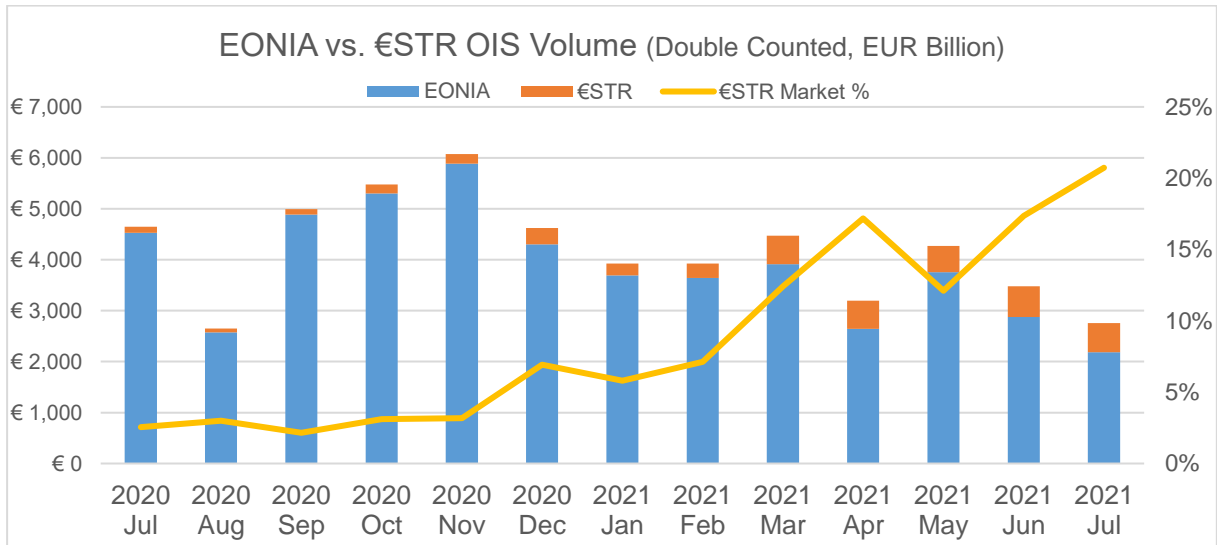
State of progress with the transition

Q2 : Are there any other aspects of the transition that need to be taken into account?

Please share any data that would help qualify further the progress with the transition or any other aspects that you think should be considered.

<ESMA_QUESTION_RFRS_2>

Regarding point 78 on page 34 of the consultation, we would like to highlight that there has been a build-up of €STR OIS liquidity in the past few months, reflected in the EONIA vs. €STR OIS monthly volume split (*see graph below*). However, we fully agree with ESMA’s conclusion that because EONIA and €STR have a fixed basis, the EONIA activity is expected to be replaced by €STR at the time of the switch in October, making the liquidity build-up of €STR somewhat less important than with other RFRs.



<ESMA_QUESTION_RFRS_2>

General approach

Q3 : Are there any other aspects that you think that ESMA should take into account or that might justify a different approach?

<ESMA_QUESTION_RFRS_3>

We appreciate that ESMA is coordinating the transition to the RFRs with other regulators and jurisdictions in order to facilitate international cooperation and global convergence in the LIBOR transition to the extent possible. Nevertheless, please also see our responses to questions 5 and 6 regarding the importance of international coordination of the transition.

<ESMA_QUESTION_RFRS_3>

Clearing obligation

Q4 : Do you agree with the assessment of the EMIR criteria and with the proposed classes (except for USD which is dealt with in a dedicated Question 5)? If not please detail how the assessment could differ and please also provide data and information to justify a different assessment.

<ESMA_QUESTION_RFRS_4>

We agree with ESMA's proposals in the consultation paper to adapt the clearing obligation by replacing EONIA with €STR as the reference index for EUR OIS (please also see our response to question 2 in this context). We also agree with the extension of the maturity of OIS referencing SONIA from 3 to 50 years, as the expansion of maturity is required to replace the GBP LIBOR IRS currently subject to the clearing obligation. The adaption of the clearing obligation to the new rates will help avoiding that new business will shift back from central clearing to the bilateral space, changing the risk profile for Europe.

With regards to the removal of the JPY LIBOR and the ESMA's assessment of the missing liquidity in the TONA OIS stating that it would not justify an expansion of the scope of the clearing obligation and that it would be unclear that TONA will be replacing the JPY LIBOR, Eurex believes the recent take up



of liquidity in TONA OIS would suggest that it will be replacing the JPY LIBOR IRS currently in scope of the clearing obligation and would also support an inclusion of the TONA OIS with an extension to 30Y into the ESMA register. By both removing the JPY IRS from the CO and declining to add the TONA OIS to the CO, there will be an extended amount of time within the EU where there will be no obligation to clear JPY derivatives.

<ESMA_QUESTION_RFRS_4>

Q5 : Will the transition regarding USD have made sufficient progress by this Autumn to decide on whether to maintain or remove USD LIBOR classes. Will there be sufficient liquidity to introduce SOFR OIS to the CO and for which maturity range? Please provide the relevant data and information to explain your assessment, in accordance with the EMIR framework.

<ESMA_QUESTION_RFRS_5>

While we agree that action would also have to be taken in the near future about the USD LIBOR and FedFunds, the adaption of the clearing mandate to the classes ESMA suggested is more urgent.

Generally, we would not suggest a removal of the USD LIBOR from the clearing obligation as long as there has not been made a decision on the treatment of SOFR and as long as the US hasn't decided on a removal and subsequent replacement.

Further, we would caution against requiring clearing for SOFR OIS in the EU without a respective adaption of the US clearing obligation to include SOFR OIS first. We understand that ESMA is aware of the CFTC's statement on the "SOFR First initiative" ([CFTC Market Risk Advisory Committee Adopts SOFR First Recommendation at Public Meeting | CFTC](#)) for increasing liquidity in derivatives referencing SOFR and welcome ESMA's approach to closely monitor the further built up of liquidity and the approach taken by US regulators before taking a decision on the EU clearing obligation to include SOFR OIS.

<ESMA_QUESTION_RFRS_5>

Q6 : Do you agree with the proposed implementation of the changes? If not please provide details that could justify a different implementation.

<ESMA_QUESTION_RFRS_6>

As alluded to in our answer to question 3 we appreciate that ESMA is coordinating the LIBOR transition with other regulators and jurisdictions in order to facilitate international cooperation and global convergence wherever possible. Being mindful of the legislative process to adapt the RTS on the clearing obligation we appreciate that ESMA is aiming at an implementation as of 3 January 2022 as the LIBORs will cease to be produced by the end of 2021.

Nevertheless, we would like to highlight that EU CCPs have aligned on a switch for EONIA legacy trades to €STR in mid-October 2021 and plan for a conversion of GBP and the JPY LIBOR legacy trades to RFR OIS trades in early and mid-December 2021. Further, the BoE indicated in its consultation on adapting the UK clearing obligation that it plans to implement the respective changes in line with the dates when CCPs are making the switches.

Consequently, in the EU, we may see a gap at the end of December where the GBP and JPY LIBORs will be subject to the clearing obligation without a CCP clearing them as well as new business under the replacement rates which will not yet be subject to the clearing obligation; this is also true with EONIA from mid-October until the end of the year. While we would not expect to see much new GBP/JPY LIBOR or EONIA activity after their conversion at CCPs, we could not exclude the possibility that some market participants would have to do some targeted GBP/JPY LIBOR or EONIA transactions which would be done in the bilateral space.

In this context, we would like to highlight in general the importance to protect the integrity of central clearing and avoid a move back to the bilateral space.

<ESMA_QUESTION_RFRS_6>

Derivatives trading obligation

Q7 : Do you agree with the proposal to not include OIS referencing €STR, SONIA nor SOFR to the DTO at this point in time? In case you disagree with ESMA's proposal, please justify and support your assessment with qualitative and quantitative data.

<ESMA_QUESTION_RFRS_7>

While Eurex does not offer the products currently subject under the DTO for trading we would like to provide some general comments on the DTO which ESMA may consider useful for the general discussion about the potential adaptation of the scope.

DBG has welcomed the introduction of the trading obligation for OTC derivatives (DTO) under MiFIR as one of the key cornerstones of the G20 reforms in the aftermath of the financial crisis. DBG considers central clearing and trading of OTC-derivatives on exchanges as beneficial for the overall level of transparency and ultimately as integral for the stability of financial markets. However, ESMA's Annual Statistical Report on the EU Derivatives Markets show that despite the DTO the level of notional volume of derivatives executed on trading venues (ETDs and OTC executed on-venue) has remained with approximately 15% relatively stable at low levels. This also means that 85% of the notional volume is still executed off-venue in opaque OTC-markets. Not including OIS referencing €STR or SONIA to the scope of the DTO bears the risk to further increase the share of notional volume executed OTC bilaterally. ESMA should therefore carefully monitor the liquidity situation of these RFRs on EU venues in order to avoid a further increase of volumes executed OTC bilaterally.

<ESMA_QUESTION_RFRS_7>

Q8 : Do you consider that IRS referencing USD LIBOR should continue to be subject to the DTO?

<ESMA_QUESTION_RFRS_8>

Eurex agrees with ESMA to keep IRS referencing the USD LIBOR in scope of the DTO. We would not see a reason to remove the USD LIBOR from the scope, as the criteria for a scope inclusion as per Art. 32 (2) MiFIR are fulfilled.

Please also refer to our answers to questions 6 and 7 in this context.



<ESMA_QUESTION_RFRS_8>

Cost Benefit Analysis

Q9 : Are there other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis? Please provide quantitative and qualitative details.

<ESMA_QUESTION_RFRS_9>

<ESMA_QUESTION_RFRS_9>