

15 May 2018

European Money Markets Institute (EMMI)
Avenue des Arts 56
1000 Brussels
Belgium

Email: hybrid2018@emmi-benchmarks.eu

Dear Sirs,

EMMI CONSULTATION PAPER ON A HYBRID METHODOLOGY FOR EURIBOR

The Loan Market Association ("LMA") welcomes the opportunity to provide the European Money Markets Institute ("EMMI") with feedback on the 26 March 2018 Consultation Paper on a Hybrid Methodology for EURIBOR.

The LMA is the trade body for the syndicated loan markets in Europe, the Middle East and Africa ("EMEA"). Its aim is to encourage liquidity in both the primary and secondary loan markets by promoting efficiency and transparency, as well as by developing standards of documentation and codes of market practice, which are widely used and adopted. Membership of the LMA currently stands at over 670 organisations across EMEA and consists of banks, non-bank investors, law firms, rating agencies and service providers.

We have not replied to each individual question in the Consultation Paper but have set out our principal thoughts below. Our member institutions are likely to have other thoughts on the proposals and we have encouraged them to submit their own feedback to EMMI.

The LMA welcomes the objective of developing a hybrid methodology for the EURIBOR benchmark which leverages on market transactions to the extent available. This work is particularly important given the widespread use of the EURIBOR benchmark across the syndicated loan markets in EMEA and in the current environment of uncertainty around the sustainability of existing benchmark rates.

However, the LMA has some concerns in relation to the proposals contained in the Consultation Paper. These are similar to the concerns that we raised with the 30 October 2015 Consultative Position Paper on the Evolution of EURIBOR in that certain of the proposals could potentially create a risk to the contractual continuity of references to EURIBOR.

Contractual continuity

The proposal to maintain the existing 11.00 a.m. CET publication time for EURIBOR to preserve continuity is welcomed. LMA facility documentation defines EURIBOR by reference to the rate which is determined "*as of 11.00 a.m. (Brussels time)*". Therefore moving to a different publication time would mean that documentation containing such references would need to be amended. A change in the publication time would also result in significant practical and operational difficulties for the syndicated lending market.

Whilst maintaining the existing publication time should go some way to ensuring contractual continuity, certain other proposals could create a potential risk that references to EURIBOR in LMA documents might not operate to reference EURIBOR based on a hybrid methodology.

LMA facility documentation defines EURIBOR as the "*euro interbank offered rate administered by [EMMI]...*". Whilst it is helpful that the name of the rate is not changing, there is a potential risk that changes to the methodology could lead to a challenge to contractual continuity based on the enhanced EURIBOR no longer being an interbank offered rate. For example, EMMI's proposal to change the statement of underlying interest to "*the rate at which wholesale funds in euro could be obtained by credit institutions in the EU and EFTA countries in the unsecured money markets*" (which is understandable for the reasons identified in the Consultation Paper) would mean that an enhanced EURIBOR would no longer be an interbank rate nor based on rates available to banks lending between themselves in the interbank market.

As stated above, LMA facility documentation defines EURIBOR by reference to the rate "*as of 11.00 a.m. (Brussels time)*". We note that the proposals provide that enhanced EURIBOR will be based on eligible transactions from the previous day. Although the proposal is for enhanced EURIBOR to be published at 11.00 a.m. CET, it may be difficult to say that the rate is "as of" 11.00 a.m. CET as it will reflect trade data from the previous day. There is a potential risk that this could lead to a challenge to contractual continuity.

If an enhanced EURIBOR fell outside the scope of the existing LMA definition, the interest rate would be determined by reference to a variety of fallback provisions, which are unlikely to be workable for the market on a large scale for a prolonged period.

Practically, the likelihood of legal challenges around contractual continuity could be greater where the rate under the new hybrid methodology is significantly different from that which is produced by the current methodology. The outcome of the testing process, which we note is currently underway, will be key in this respect. We also note the plan to consult with further details on the parameters of the proposed methodology later this year following the end of the testing period.

Legal working group

We note that in respect of the October 2015 consultation, there was a legal working group set up to assess the legal implications of the transition to a new methodology for EURIBOR. It would be helpful to know whether EMMI plans to consult the legal working group again in respect of the latest proposals. If so, we would welcome the opportunity to once again be part of that legal working group.

We would be pleased to discuss any aspect of the above with you in more detail. If we can be of any further assistance, please do not hesitate to contact me by email at clare.dawson@lma.eu.com or on +44 (0)20 7006 6007. We would also be pleased to meet to further discuss the above at your convenience.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Clare Dawson', with a horizontal line extending from the end of the signature.

Clare Dawson

Chief Executive