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Euribor-EBF response to the European Commission Consultation Document on the Regulation of Indices

A Possible Framework for the Regulation of the Production and Use of Indices serving as benchmarks in Financial and other Contracts

Introduction:

Euribor-EBF is an international non-profit making association under Belgian law founded in 1999 with the launch of the Euro and based in Brussels (56, avenue des Arts, 1000 Brussels). Its members are national banking associations in the Member States of the European Union which are involved in the Eurozone and the Euro-system¹.

Euribor-EBF has a mission of informing its members, other organizations, the European authorities and the national regulatory authorities on issues relating to the interbank rates. It develops and supports activities related to the Euribor (Euro Interbank Offered Rate), the USD Euribor, the Eonia (Euro OverNight Index Average), the Eurepo (benchmark rate of the large Euro repo market) and the Eonia Swap Index (derivatives market reference rate for the Euro).

It also supports other practical initiatives, fostering the further integration of the European financial market. These initiatives include the improvement of the liquidity and transparency of the short term commercial paper markets, by means of a harmonized framework for short-term European paper 'STEP', in collaboration with the European Central Bank.

Euribor-EBF Interest Representative Registration ID number: 70092714192-21.

Background documentation:

Euribor Code of conduct: http://www.euribor-ebf.eu/assets/files/Euribor_code_conduct.pdf

Euribor Technical Features: http://www.euribor-ebf.eu/assets/files/Euribor_tech_features.pdf

Euribor Panel Composition: <http://www.euribor-ebf.eu/euribor-org/panel-banks.html>

Frequently Asked Questions about Euribor:

<http://www.euribor-ebf.eu/assets/files/Euribor%20FAQs%20Final.pdf>

Euribor-EBF website: www.euribor-ebf.eu

¹ The list of Euribor-EBF National Members Associations is available at <http://www.euribor-ebf.eu/assets/files/euribor-ebf-members.pdf>

Key Points:

- Euribor-EBF welcomes the opportunity to answer the European Commission Consultation Document on the Regulation of Indices.
- Euribor EBF wishes to emphasise that this response purports to discuss the possible evolution of the benchmark production and use but is in no way meant to express any comment on the current benchmark production process and the various parties who currently participate in it as well as the parties using such benchmarks.
- Euribor-EBF believes that the introduction of regulation on benchmarks should focus on high-level principles and allow enough flexibility to adapt to each benchmark's features. In addition, Euribor-EBF underlines that market participants' expertise is crucial in order to ensure that the measures taken at Euribor-EBF and regulatory/supervisory level are adapted to the market.
- Euribor-EBF supports the introduction of European public supervision on benchmarks. Supervision should also apply *ex-ante* and *ex-post* (before and after the fixing delivery).
- With a view to further enhance the non-questionability and accuracy of Euribor, Euribor-EBF is currently elaborating on the clarity of its guidelines contribution criteria and contribution process.
- Euribor-EBF believes that the Euribor benchmark should be run by an independent, non-profit driven structure, with the introduction of public supervision. Euribor-EBF will envisage structural changes if needed and develop further the independence and diversity of the Steering Committee, with the possible appointment of other classes of stakeholders in the Steering Committee.
- Having considered the disruption in the fixing that an actual transactions-based index may generate, Euribor-EBF supports an evolution of the current benchmarks based on enhanced governance and public supervision rather than changes to the definition or calculation, thereby limiting any potential impact on existing legal contracts and customer loans as well as potential litigation due to such definition amendments.
- Euribor-EBF acknowledges that there is a need to analyze the technical feasibility of setting, along with the large majority of Euribor panel banks and in addition to Euribor, a transactions-based benchmark in a medium to long term perspective.
- In light of the volume of outstanding financial contracts based on these benchmarks, including loans to households and SMEs, the potential impact of introducing a regulatory framework for benchmarks should be carefully assessed.

Response to Consultation Questions:

Chapter 1: Indices and Benchmarks: What they are, who produces them and for which purposes

(1) Which benchmarks does your organisation produce or contribute data to?

Euribor-EBF currently delivers the following interbank benchmarks to the market:

- **Euribor® (Euro Interbank Offered Rate)** is the rate at which Euro interbank term deposits are being offered by one prime bank to another within the EMU zone.
- **USD Euribor® (USD Interbank Offered Rate)** is the rate at which USD interbank term deposits are being offered by one panel bank to another panel bank.
- **Eonia® (Euro OverNight Index Average)** is an effective overnight rate computed as a weighted average of all overnight unsecured lending transactions in the interbank market, initiated within the euro area by the contributing panel banks.
- **Eurepo®** is the rate at which one bank offers in the euro-zone and worldwide, funds in euro to another bank if in exchange the former receives from the latter the best collateral within the most actively traded European repo market.
- **Eonia Swap Index®** is the average rate at which a representative panel of prime banks provide daily quotes, rounded to three decimal places, that each Panel Bank believes is the Mid Market rate of Eonia swap quotations between prime banks.

(3) Have you recently launched a new benchmark or discontinued existing ones?

Euribor-EBF launched, on 2 April 2012, a new benchmark aimed at reflecting the US dollar funding cost in the interbank market: the USD Euribor. It was developed in response to a demand from a large number of European banks.

It is quoted by a panel composed of 19 European and International banks.

Like Euribor, it refers to a Code of Conduct setting out the obligations of panel banks as well as the process and composition rules of the Steering Committee which governs the fixing and monitors market developments.

(4) How many contracts are referenced to benchmarks in your sector? Which persons or entities use these contracts? And for which purposes?

While the exact number is difficult to estimate, multiple millions of contracts are linked to Euribor and Eonia at industry level. It is also used as a treasury tool used extensively for hedging and trading purposes. In addition, Euribor is largely used for corporate, retail loans and mortgages rate fixings around Europe; therefore the number of contracts based on Euribor is very significant.

Other products such as indexes referenced to inflation and stock indexes such as Euro Stoxx could also be treated as indexes related to a benchmark.

(5) To what extent are these benchmarks used to price financial instruments? Please provide a list of benchmarks which are used for pricing financial instruments and if possible estimates of the notional value of financial instruments referenced to them.

These benchmarks are used to price financial instruments to a very great extent, since most of interest rate derivatives used for swapping fixed with floating rate are linked to Euribor by legal definition. The same applies for EONIA swaps, where counterparty swaps a fixed rate against overnight rates. A broad systemic estimate is well in excess of €1 trillion.

(6) How are benchmarks in your sector set? Are they based on real transactions, offered rates or quotes, tradable prices, panel submissions, samples? Please provide a description of the benchmark setting methodology.

Euribor, USD Euribor, Eurepo and Eonia Swap Index are based on expert judgment (estimates) from European and International panel banks. Each index is quoted by a specific panel, composed of 43 banks for Euribor, 19 for USD Euribor, 32 for Eurepo and 20 for Eonia Swap Index.

Setting methodology for these benchmarks:

- Every Panel Bank is required to directly input its data no later than 10:45 a.m. CET (10:55 a.m. for Eonia Swap Index) on each day that the Trans European Automated Real Time Gross Settlement Express Transfer system (TARGET) is open. *For USD Euribor, panel banks quote on each day that follows the USD Euribor calendar.*
Each Panel Bank is allocated a private page on which to contribute its data. Each private page can only be viewed by the contributing Panel Bank and by THOMSON REUTERS staff involved in the fixing process.
- From 10:45 a.m. to 11:00 a.m. (CET) at the latest, the Panel Banks can correct, if necessary, their quotations. *For Eonia Swap Index, panel banks can correct their quotations between 10:55 a.m. and 11:00 a.m. (CET).*

- At 11:00 a.m. (CET), THOMSON REUTERS will process the index calculation. THOMSON REUTERS shall, for each maturity, eliminate the highest and lowest 15% of all the quotes collected. The remaining rates will be averaged and rounded to three decimal places *For USD Euribor, the rates are rounded to five decimal places.*
- After the calculation has been processed at 11:00 a.m. (CET), THOMSON REUTERS will instantaneously publish the rate under THOMSON REUTERS relevant code, which will be made available to all its subscribers and to other data vendors. At the same time, the underlying Panel Bank rates will be published on a series of composite pages which will display all the rates by maturity.

Fallback provisions:

Before calculating at 11:00 a.m. (CET) on each TARGET day, the index for that day, THOMSON REUTERS shall verify if all Panel Banks have made their data available for that day in accordance with established procedures.

If one or more Panel Banks have failed to do so, THOMSON REUTERS shall use reasonable efforts to remind such Panel Banks by telephone or by any other means of communication of their obligation to provide the data and shall invite them to submit the data immediately. Since June 2012, an automatic reminder e-mail has been introduced. Should any Panel Bank, after such a reminder, still not provide its data until 11:00 a.m. (CET), THOMSON REUTERS shall calculate the index for that day without the missing data and promptly notify Euribor-EBF in writing.

If more than 50% of Panel Banks fail to provide their data by 11:00 a.m. (CET), THOMSON REUTERS shall delay calculating the index until 50% of the Panel Banks have quoted. If this is not possible before 11:15 a.m. (CET), THOMSON REUTERS shall, at 11:15 a.m., either:

- if 12 or more Panel Banks from 3 or more countries have provided data, calculate and display the index based on this data. *For Eonia Swap Index: if 10 or more Panel Banks have provided data, calculate and display the EONIA SWAP INDEX based on this data.*
- if fewer than 12 Panel Banks have provided data or if the Panel Banks which have provided data are from fewer than 3 countries, THOMSON REUTERS shall delay the calculation of the index for that day until 12 or more Panel Banks from 3 or more countries have provided data. THOMSON REUTERS, at 11:15 a.m. (CET), indicate the delay on the page where index should be displayed. *For Eonia Swap Index: if fewer than 10 Panel Banks have provided data, delay the calculation of the EONIA SWAP INDEX for that day until 10 or more Panel Banks have provided data.*



The **Eonia** is calculated following a different setting methodology. It is based on actual cash transactions reported by panel banks (43) and calculated by the European Central Bank.

Setting methodology for Eonia:

- Each Panel Bank shall, on each day that the Trans European Automated Real Time Gross Settlement Express Transfer system (TARGET) is open and no later than 6.30 p.m. (CET), report to the ECB the total volume of unsecured lending transactions that day and the weighted average lending rate for these transactions. The amount of lending transactions shall be reported by Panel Banks in millions of euros, and the individual average rates shall be reported with three decimals. Rounding shall be carried out following the established rounding rules in the market.
- The ECB shall aim to make the computed rate available to THOMSON REUTERS for publication as soon as possible so that Eonia® can be published between 6.45 p.m. and 7.00 p.m. (CET) on the same evening.
- THOMSON REUTERS publishes the Eonia® reference rate on THOMSON REUTERS page "EONIA=", which is made available to all its subscribers and to other data vendors.
- The ECB will undertake control measures to assess the quality of Eonia® and may report to the Steering Committee on the performance of individual Panel Banks.

(7) What factors do you consider to be the most important in choosing a reliable benchmark? Could you provide examples of benchmarks which incorporate these factors?

Indices such as Euribor are of very significant importance for financial markets, mortgage loans and the European financial stability. They should combine the following criteria:

- **Credibility and integrity:** it should be extremely difficult or virtually impossible to influence and based on strong governance.
- **Reliability and accuracy:** the criteria used to set up the contribution must be well defined and robust
- **Representativeness:** the panel of contributors must be large and diverse enough to represent the broad financial market cohort it represents.
- **Sustainability:** it should be predictable, consistent and reliable over time, under both normal and distressed conditions, not subject to structural disruptions, especially if used in long term contracts.
- **Rule-based:** there should be clear harmonized contribution process guidelines that the contributors are able to replicate in-house.
- **Transparency,** with respect to the methodology of calculation, its governance and publication.

Chapter 2 Calculation of Benchmarks: Governance and Transparency.

(8) What kinds of data are used for the construction of the main indices used in your sector? Which benchmarks use actual data and which use a mixture of actual and estimated data?

Euribor, USD Euribor, Eurepo and Eonia Swap Index are based on expert judgment (estimates) from European and International panel banks.

For **Euribor**, they are requested to provide daily quotes of the rate, rounded to three decimal places, that each panel bank believes one prime bank is quoting to another prime bank for interbank term deposits within the euro zone.

For **USD Euribor**, they provide daily quotes of the rate that each panel bank believes one panel bank is quoting to another panel bank for interbank USD term deposits within the euro zone.

For **Eurepo**, panel banks quote the rate at which one bank offers, in the euro-zone and worldwide, funds in euro to another bank if in exchange the former receives from the latter the best collateral within the most actively traded European repo market.

Finally, for **Eonia Swap Index**, panel banks provide daily EONIA Swap quotes, that each Panel Bank believes is the mid market rate of EONIA Swap quotations between prime banks.

As mentioned previously, the **Eonia** index is based on real-transactions reported by panel banks to the ECB. They are requested to provide the total volume of unsecured lending transactions that day and the weighted average lending rate for these transactions.

With a view to further enhance the credibility and accuracy of Euribor, Euribor-EBF is currently working on new agreed contribution criteria, to define which bank should be considered as a prime bank on one side, and which criteria should be taken into account by the panel bank when sending its contribution to the index. This will help panel banks to further document and rationalise their contribution level, and the supervisors/auditors to apply ex post controls on submissions.

(9) Do you consider that indices that do not use actual data have particular informational or other advantages over indices based on actual data?

In theory, a real-transactions based calculation would be a preferred option in order to ensure the transparent credibility of a benchmark, even though it would not be risk-free: particularly

in current market conditions with few transactions for some maturities (medium to long-term), there could be an incentive for counterparts to agree on transactions price for a specific tenor. This kind of manipulation would be very difficult to detect if the rates were to be based on real transactions.

Nevertheless, Euribor-EBF believes that the Euribor should remain an estimation of the market price levels by a panel bank, as it was originally conceived, while strengthening the contribution guidelines, controls and overall governance of the index. It relies on an expert judgment of the market, by the market.

In our view, a transactions-based calculation would be inadequate for Euribor, for the following reasons:

- The Euribor quotation **is not based on the “borrowing cost”** of a contributing bank, but on the estimate of the rate at which one prime bank is offering funds to another prime bank in the Eurozone. In other words, panel banks do not show their cost of funding, but an estimation of the funding cost in the wider interbank market.
- In the current environment, **the number of interbank lending transactions is particularly limited for medium to longer dated maturities**. If the fixing was based on real-transactions, it is highly likely that, due to credit constraints on banks, there would be no quote for some maturities, which would have an impact on the existing contracts based on Euribor.
- Because of current European government debt crisis, a ‘real transactions’ based fixing is likely to result in **a significant spread in the prices amongst countries** participating in the fixing. It would consequently **increase market fragmentation** by focusing on the huge difference of pricing between countries and banks. Banks operating in peripheral countries have a floor, in their cost of funding, based on domestic government bills. The cost of funding for banks is very rarely below that of the Sovereign state in which it is domiciled. In general these banks, fixings based on actual transactions would be at a premium to their domestic government issuance and therefore lead to a generic shift higher in contributions from these regions. When a country suffers from a widening in the spread *vis-à-vis* the so-called “core countries”, their cost of borrowing rises immediately. If the index was based on real transactions, systemic banks in peripheral countries would necessarily contribute higher rates, whilst core countries would contribute lower or unchanged rates. For the above-mentioned reasons, banks would trade at higher spreads, thus contributing to a very diverse range of rates for the same period. The implications of such behaviours should not be underestimated.
- **Real transactions-based rates might rise drastically**, depending on a series of factors: Would the final rate be the simple average of all transactions for a specific tenor? Would

it be a weighted average and, if so, which weights would be used? If there weren't any transactions for a specific tenor, which rate would be used? Which statistical model would be used for interpolation, if it is the case? All these questions would need to be carefully assessed. Depending on the parameters employed, very different rates might be calculated, with the possibility of resulting in an inverted interest rate curve (e.g. 3m rate at 2% and 6m rate at 0.50%), or very volatile rates, even day-to-day, which would not be the result of an objective economic situation, but rather the simple outcome of a mechanical calculation.

- **The fixing time might also be an issue.** Currently, the Euribor is published at 11.00 CET, whereas overnight effective rates like Eonia are published at close of business (6 pm CET). In this case, Exchanges would need to change their calendar for futures and options. Additionally, middle and back offices in banks may be forced to work long hours to settle deals. Finally, in relation to the US Open time, if Euribor was fixed at 6pm CET, then many trades would have to be settled with half a day less time compared to the current situation and American banks' activity may impact the fixing directly.

Euribor-EBF considers that an evolution of the Euribor based on enhanced governance and public supervision rather than on calculation changes is to be preferred option, in order to minimize the impact on existing contracts and, therefore, on customer loans, and potential litigation issues due to changes in the definition and implementation of any such amendments.

Meanwhile, Euribor-EBF acknowledges the need to analyze the technical feasibility of setting, along with the large majority of Euribor panel banks and **in addition to Euribor**, a transactions-based benchmark in a medium to long term perspective. Euribor-EBF is willing to work on a new index with a wider inclusion of products beyond interbank lending, e.g. considering on-balance sheet instruments such as commercial papers for a restricted number of maturities (e.g. 1, 3, 6M). In this context, Euribor-EBF is planning to set up a transactions-based calculation test with the participation of a large number of panel banks.

(10) What do you consider are the advantages and disadvantages of using a mixture of actual transaction data and other data in a tiered approach?

In a market with few real transactions, the more information sources there are, the more realistic the market valuation will be.

Rather than disadvantages, the calculation process might be very complex and problematic for the following reasons:

- When mixing real data with estimations (in case of interest rates) one faces the complex task to blend the curve in order to obtain a smooth set of data. We consider that a non-smooth curve or an oddly shaped one (to make an extreme example, 3m

- rate fixing at 1%, 6m rate at 2%, 12m rate at 1% again) would be credible only if it represented the real average market situation, not reflecting any outliers;
- Real transactions may produce scattered and erratic data from day to day, thus creating volatility not derived from the general market sentiment and behaviour. This risk is particularly tangible in fragmented markets;
 - An arbitrary choice has to be made when deciding *ex-ante* which type of interpolation has to be used;

In addition, panel banks should be carefully chosen, since dissimilar panels may produce very different indices even if observing the same underlying instrument. A system based on real transactions has to be as comprehensive as feasible.

(11) What do you consider are the costs and benefits of using actual transactions data for benchmarks in your sector? Please provide examples and estimates.

Euribor-EBF believes that, whenever it is possible, the use of actual transactions data for benchmarks is beneficial to ensure that they are representative, accurate and, to some extent, less questionable even though, as described under question (9) it would not be immune to potential manipulation or mistakes.

Some benchmarks, such as Eurepo or Eonia Swap Index, could potentially be based on real-transactions.

Nevertheless, Euribor-EBF believes that Euribor should remain an estimation of the market price by panel banks, as it was originally conceived, while strengthening the contribution guidelines, controls and overall governance of the index. As further detailed under question (9), the use of actual data in the Euribor calculation would result in a fragmented curve given the very few transactions on the medium to long term maturities and the spread in the prices amongst countries. In addition, rates would most likely increase, which would have an impact on the numerous contracts using Euribor as a reference, including loans to non-financial institutions.

Consequently, as expressed previously, Euribor-EBF considers that the necessary evolution of the Euribor must be based on enhanced governance and public supervision rather than on calculation changes, in order to minimize the impact on existing contracts and potential litigation issues due to changes in the definition and implementation of any such amendments.

This view on Euribor will not prevent Euribor-EBF from considering the need to develop a new benchmark based on actual transactions data in the future.

(12) What specific transparency and governance arrangements are necessary to ensure the integrity of benchmarks?

First, a **strong contribution process** must be defined. Euribor-EBF is working on written guidelines on the contribution process and general responsibilities, including *ex-ante* and *ex-post* controls, as well as homogenous criteria for the determination of the contributions, based on market indicators:

Determination of the contribution:

- There should be a clear **definition of roles** in the contribution process and segregation of duties (physical and systems) of the contribution team in order to prevent conflicts of interests. This means that, in any case, conflicts of interests between the employee responsible for the quotes and Money Markets Desks (respectively Derivatives Traders) must be avoided.
- In addition, **contributing staff should receive appropriate training** and confirm understanding of rules and policies. **Panel banks should appoint authorized persons to make the contribution.**
- The **responsibility of Euribor submissions should be at Treasury senior management level.** The daily contributions should be done by an operational team under the control of the senior management. Treasury departments have strong market knowledge, having daily involvement in the cash balance sheet management, as well as a complete view of the degree of price liquidity in the market.
- **Four-eye principle and pre-submission control:** The **quality of the contribution** should be reviewed by a neutral group within the bank with no P&L responsibility but sufficient market expertise about the Euro cash market (e.g. Market Risk Department), taking into account evolution of interest rate level, market criteria, ECB rates with appropriate levels of alerts (thresholds).
- In case the neutral group has any issues or concerns with the respective panel Bank's contributions, the panel bank should implement a well-documented escalation process within its organisation. The panel bank should implement an information and communication process between the business and the neutral control group. Any communication or exchange of views during the pre-submission control process should be well documented on a daily basis.
- The panel bank should ensure through specific and detailed guidelines and policies that the processes for the Euribor submission, in general, and for determining the Euribor contributions, in particular, are transparent and well documented, that is, information, comments, and data used for determining the contribution rates should be stored according to the respective archiving requirements.

- A panel bank's contribution rates should be classified and treated as confidential, non-public, price-sensitive information prior to their publication on a daily basis. The respective bank internal key operating procedures, guidelines, and policies should represent the basis for this classification.

Submission of the contribution:

- The contribution team, under the supervision of the Treasury senior management, should be responsible for inputting the rates into the calculator agent's system, once it is validated by the Market Risk Department (or other neutral group as described above).
- A 'four-eye' principle should also be applied when inputting the rates, in order to avoid any mistyping mistakes.
- Panel bank must also ensure the correct and timely submission of its contribution rates to the calculation agent by implementing processes and procedures. (An automatic reminder procedure is already in place on the calculator agent's side.)
- Panel banks must communicate the names of the contributing persons and senior management responsible to Euribor-EBF and the calculator agent. (Already in place though a contact form to be returned to Euribor-EBF on an annual basis). Any change in the contact list must be communicated without delay to Euribor-EBF and the calculator agent.
- Recordkeeping of contributors' names, internal communications, argument for contribution and data related to the process for a set period of time, in particular when there are different opinions on the rate, must be ensured.
- The system(s) used for the submission process must meet minimum security standards in order to avoid unwanted, uncontrolled changes and amendments to the contribution rates (e.g. personal logins, passwords, etc.)

Post-submission controls

- In addition to the pre-contribution control, the **Market Risk Department** (or other neutral group as described above) should review and analyze the bank's contributions over a wider time horizon (e.g. one calendar month) in close cooperation with other stakeholders within the bank on a regular basis (e.g. monthly review meeting).
- The **Compliance Department** should be in charge of controlling **the internal contribution processes and respect of the Code of Conduct**. The Compliance department should be able to review the process on real-time basis.

Internal audit

- Each panel bank should ensure that the internal audit department regularly reviews, checks, and validates all processes and procedures relating to the Euribor submission.

With regard to the above-mentioned common contributions guidelines, Euribor-EBF acknowledges that banks' internal structures may differ significantly from one to another and that some adjustments might be necessary.

Finally, **further enhanced governance measures** should be taken, in order to maintain the credibility of the benchmarks. The Euribor Steering Committee recommends the following governance enhancement measures (those proposals would need to be further discussed with the appointed supervisor):

- **Inclusion of a Supervisor representative as member of the Steering Committee:** a European Supervisor should be represented within the Steering Committee. In addition, Euribor-EBF believes that the composition of the Steering Committee should be enlarged in order to include academic experts, central bankers, and supervisor's representatives.
- **Supervision of the calculation process:** A 'four-eye principle' (double checking of the contribution process by different parties) on the calculation process run by the calculator agent should be performed by the European Supervisor.
- **Increase the number of Steering Committee meetings:** The number of Steering Committee meetings should be increased to at least 6 meetings a year, alternating physical meetings and conference calls, in order to reinforce the monitoring of contributions and of the level of the fixing.
- **External audit on panel banks' processes:** Panel banks' processes should be audited annually by independent auditors. To achieve this, the criteria on which the audit process will lie must be clearly defined and harmonized at European level.
- **Ex-post controls:** Panel banks should be randomly visited by the European Supervisor and the Secretariat and explain their quotation on specific days.
- **Review sanctions for misbehaving banks:** The review process of appropriate sanctions should be held at European Supervisory level.

(13) What are the advantages and disadvantages of imposing governance and transparency requirements through regulation or self-regulation?

Euribor-EBF is in favour of a general framework for benchmarks at European and International level. Nevertheless, each benchmark has its own features and needs specific measures.

As an example, Euribor and Libor must be differentiated:

Definition: Euribor is the rate that each panel bank believes one prime bank is quoting to another prime bank for interbank term deposits within the Euro zone. It is an offered rate as opposed to a borrowing rate considered in LIBOR. Additionally, panel banks do not quote a price reflecting their own position in the market which considerably reduces any potential incentive to quote inappropriate rates for reputational reasons (“stigma effect”).

Panel composition: The Euribor panel is composed of 43 banks. The 15% highest and 15% lowest contributions are excluded from the calculation. The fixing is an average of the remaining individual quotes. Furthermore, it should be noted that panel banks are widely diversified geographically, and represent all banking sectors: commercial banks, cooperative banks, investment banks, large and small banks, local and international banks. This directly contributes to making Euribor a very diverse and credible representation of the general banking market in Europe.

Structure and monitoring: Euribor-EBF is an Association representing the national Associations of banks, not banks directly, thus guaranteeing a wide representation and a more challenging and neutral discussion environment. Additionally, the Euribor Steering Committee, composed of nine experienced market practitioners who must be independent and not subject to instructions from the companies or organisations to which they belong and chaired by the Chief Executive of Euribor-EBF, gives full transparency of its activities. The composition (name and company) of the Euribor Steering Committee and the minutes of the meetings are published on www.euribor-ebf.eu.

In light of these differences, **Euribor-EBF believes it is appropriate to have a common set of core principles for benchmarks governance but stresses the need for specific responses at a technical level. In this context, Euribor-EBF supports the introduction of European public supervision on benchmarks.**

In addition, Euribor-EBF believes that an evolution of Euribor based on enhanced governance and public supervision reduces the need for detailed regulation and brings enough flexibility to ensure that the necessary evolution of the Euribor index is adapted to the market. In this context, Euribor-EBF also emphasizes the contributors’ willingness to take all necessary measures to restore confidence in Euribor and further enhance its accuracy and reliability.

(14) What are the advantages and disadvantages of making contributing data or estimates to produce benchmarks a regulated activity? Please provide your arguments.

As mentioned previously, Euribor-EBF believes it is appropriate to have a common set of core principles for benchmarks governance but underlines the need for specific responses at a technical level.

Therefore, Euribor-EBF supports an evolution of the benchmarks based on enhanced governance and public supervision, in order to reach a set of measures adapted the features of the index. In this perspective, Euribor-EBF is developing clear contribution guidelines including *pre/post*-contributions controls as well as global enhanced governance measures, as further detailed under question 12.

(15) Who in your sector submits data for inclusion in benchmarks? What are the current eligibility requirements for benchmarks' contributors?

As described under question 6, Euribor-EBF benchmarks are based on panel banks' contributions (estimates for Euribor, USD Euribor, Eurepo, Eonia Swap Index and real-transactions for Eonia).

Currently, the Euribor Code of Conduct sets out the following **criteria to qualify for and stay in the Euribor panel** (Article 1 of the Code of Conduct²):

1. Banks can qualify for the panel if they are active players in the euro money markets in the euro-zone or worldwide and if they are able to handle good volumes in euro-interest rate related instruments, especially in the money market, even in turbulent market conditions.
2. When applying for a seat on the panel, banks are requested to disclose on-balance sheet interbank items and off-balance sheet items (further details in the Code of Conduct).
3. Panel banks must be banks of first class credit standing, high ethical standards and enjoying an excellent reputation.
4. Banks wishing to apply for a seat on the panel must disclose all relevant information on the items considered for the selection. As a matter of convenience, the applicants could turn in the quarterly figures notified to the national central banks/ European Central Bank.

The number of panel banks must be both high enough to reflect faithfully the geographic diversity of the still segmented money market in the euro zone and low enough to ensure an efficient manageable panel (Article 2 of the Code of Conduct).

In addition, the **banks composing the Euribor panel must fulfill the following obligations** (Article 4 of the Code of Conduct):

1. Panel banks must quote the required euro rates:

² http://www.euribor-ebf.eu/assets/files/Euribor_code_conduct.pdf

- to the best of their knowledge, these rates being defined as the rates at which euro interbank term deposits are being offered within the EMU zone by one prime bank to another at 11.00 a.m. Brussels time ("the best price between the best banks")
 - for the complete range of maturities as indicated by the Steering Committee
 - on time as indicated by the screen service provider
 - daily except on Saturdays, Sundays and Target holidays
 - accurately with two digits behind the comma
2. Panel banks must commit themselves to transmit to the European System of Central Banks all the necessary figures to establish an effective overnight euro rate, and in particular their aggregate loan volume and the weighted average interest rate applied.
 3. Panel banks must make the necessary organisational arrangements to ensure that delivery of the rates is possible on a permanent basis without interruption due to human or technical failure.
 4. Panel banks must take all other measures which may be reasonably required by the Steering Committee or the screen service provider in the future to establish Euribor®.
 5. Panel banks must subject themselves unconditionally to this Code and its Annexes, in their present or future form.
 6. Panel banks must promote as much as possible Euribor® (e.g. use Euribor® as reference rate as much as possible) and refrain from any activity damageable to Euribor®.

The list of panel banks is periodically reviewed by the Steering Committee.

Similar rules are applicable to the other Euribor-EBF benchmarks, adapted to the features of each benchmark. Each benchmark relies on its own Code of Conduct.

(16) How should panels be chosen? Should safeguards be provided for the selection of panel members, and if so which safeguards?

The criteria to qualify for a seat in the Euribor panel are described under question 15.

Euribor-EBF stresses the importance of keeping the panel as large as possible, while ensuring its comprehensive representation of market criteria and geographical diversity.

The inclusion of contributors in the panel and a regular review of its composition based on market and geographical criteria should be made by the Steering Committee.

In case of a panel bank's failure to fulfill its obligations under the Code of Conduct, warnings, suspension and/or exclusion sanctions must be applied by the Steering Committee.

(17) How should surveys of data used in benchmarks be performed? What safeguards are necessary to ensure the representativeness and integrity of data gathered in this way?

Euribor-EBF believes that a strong and harmonized contribution process with *pre* and *post* submission controls must be established in order to ensure sufficient safeguards and integrity of the data. In this perspective, as described under question (12), Euribor-EBF is working on written guidelines on the contribution process and general responsibilities, including *ex-ante* and *ex-post* controls.

These processes include four-eye principle when determining the contribution and inputting the rates, authorized persons to contribute, *ex-ante* and *ex-post* controls at banks' level, recordkeeping of data and communications, as well as internal and external audit on processes.

In addition, Euribor-EBF introduced a Euribor Management Certification Form in July 2012, whereby panel banks must certify that (1) all internal procedures are set up to ensure a robust process for the submission of contributions, excluding any internal and external influences, (2) that all submitted contributions are the bank's appreciation of the evolution of the interbank market in the Eurozone according to the Euribor definition and (3) that the Euribor Code of Conduct is fully respected when contributing to the fixing.

Finally, Euribor-EBF believes that a 'four-eye principle' (double checking of the contribution process by different parties) on the calculation process run by the calculator agent should be performed by the European Supervisor.

(18) What are the advantages and disadvantages of large panels? Even in the case of large panels could one panel member influence the benchmark?

As mentioned previously, Euribor-EBF believes that the panel must be as large and representative as possible in order to preserve the reliability and accuracy of the Euribor benchmark.

Euribor being a European benchmark, we believe it is important to ensure that the panel is large enough to reflect faithfully the geographic diversity of the still segmented money market in the euro zone. Meanwhile, this criterion must be well balanced with market standards in order to maintain the credibility of the index.

In addition, the larger the panel is, the less impact any attempt to influence the benchmark will have on the final fixing. The Euribor trimming methodology is also a means to reduce such possible impact, as the top and bottom 15% contributions are excluded from the final calculation and the remaining rates are averaged to the third decimal.

(19) What would be the main advantages and disadvantages to auditing of panels? Please provide examples.

Euribor-EBF believes that external audit on panels' contribution processes would help secure confidence in the index and strengthening its credibility.

Nevertheless, two aspects of external audit should be carefully assessed: (1) the criteria on which the audit process will lie must be clearly defined and harmonized at European level and the external audit company must have enough expertise (2) such measures will add extra costs to panel banks which, as mentioned under question (14), may represent an additional burden for the contributors.

(20) Where indices rely on voluntary contributions, do you consider that there are factors which may discourage the making of these contributions and if so why?

With the recent events, contributing to an index may be considered as an additional burden, given the costs and resources that additional compliance and governance measures will generate, as well as a potential source of reputational risk.

One bank recently withdrew from the Euribor panel and four from the Eurepo panel since July 2012. The risk to face a contagion effect to other panel banks, and therefore loose additional contributors, should not be underestimated.

(21) What do you consider to be the advantages and disadvantages of mandatory reporting of data? Please provide examples.

Euribor-EBF believes that the panel must be as large and representative as possible in order to preserve the credibility and accuracy of the Euribor benchmark. It also reduces the impact of manipulation attempts. Nevertheless, for real-transactions based benchmarks, it does not eliminate the possibility of non-existing data because of the lack of current market depth and therefore lack of transactions for medium to long term maturities.

As mentioned under question (20), following the recent events, contributing to an index may be considered as an extra burden given the costs and resources that additional compliance and governance measures will generate, as well as a potential source of reputational risk.

While making the contribution to the benchmarks compulsory might be a solution in order to preserve their accuracy and representativeness, Euribor-EBF recommends that the regulators envisage the possibility of introducing incentive measures in order to encourage panel banks to continue participating in setting these benchmarks.

(23) Do you consider that responsibility for making adjustments if inadequate data is available should rest with the contributor of the data, the index provider or the user of the index?

Euribor-EBF believes that the responsibility for making adjustments if inadequate data is available should in the future rest with the index provider, through the calculator agent.

Sufficient safeguards must be ensured at the calculator agent's level if a contribution deviates in a significant manner from the average and to detect 'fat-finger' mistakes. Should this occur, the calculator agent should contact the contributing bank and ask them to confirm their contribution – this measure is already in place for Euribor-EBF benchmarks – and alert the index provider and the supervisor.

Additionally, clear re-fix rules must be established in case of incorrect fixing. As far as Euribor is concerned, in case of re-fix, the reference quotation is the corrected fixing if this new rate is advertised no longer than one hour after the regular fixing hour.

(24) What is the formal process that you use to audit the submissions and calculations?

The calculator agent provides Euribor-EBF with regular statistical reports on panel banks contributions, which are discussed at each Steering Committee meeting. Those reports include statistics on the highest and lowest 15% contributions excluded from the final calculation (see question (6) on setting methodology), on the banks which missed contributing on some days, and on the number of times the calculator agent called some panel banks to remind them to contribute or to validate their submission.

(25) If there are any weaknesses identified in the audit, who are they reported to and how are they addressed? Is there a follow up process in place?

On the basis of the statistical reports provided to Euribor-EBF by the calculator agent, the Steering Committee reviews, at each meeting, panel banks contributions to the benchmark.

If they consider that panel banks do not comply with their obligations under the Code of Conduct, they (1) send a warning to the relevant banks and ask them to remedy the situation quickly and (2) if such warning is ignored, they can suspend or exclude the contributor (see article 7 of the Code of Conduct: Sanctions).

(26) How often are submissions audited, internally or externally, and by what means? Do you consider the current audit controls are sufficient? What additional validation procedures would you suggest?

Unless the calculator agent reports a particular contribution issue, the Steering Committee reviews panel banks' contributions twice a year as described under questions (24) and (25).

First, Euribor-EBF believes that *ex-ante* and *ex-post* controls must be reinforced at contributors' level. As described under question (12) Euribor-EBF is working on common contribution guidelines, including *pre* and *post* submission controls by a neutral group of the bank with no profit-making interests (e.g. Market Risk Department), with record-keeping of data and communications related to the submission process.

In addition, Euribor-EBF recommends that a four-eye principle is applied before the fixing is published by the index provider and the appointed Supervisor.

Finally, Euribor-EBF believes that regular audit of the submissions must be held on a more regular basis by the Steering Committee, including supervisor representatives. In this perspective, it recommends increasing the number of Steering Committee meetings to at least six/year.

(27) What are the advantages and disadvantages of a validation procedure? Please provide examples.

As mentioned previously, Euribor-EBF believes that validations procedures must be enhanced through strong *ex-ante* controls at the contributors' level and at the index provider and appointed supervisor level.

The introduction of additional audit measures and strong processes will require extra cost and personnel investment and some banks with smaller structures and teams may experiment difficulties in setting up all requested process.

Meanwhile, Euribor-EBF believes that this potential disadvantage does not supersede the benefit that strong validations procedures will have on the integrity and credibility of the Euribor. It also considers it will help restoring the market's confidence in these benchmarks.

(28) Who should have the responsibility for auditing contributed data, the index provider or an independent auditor or supervisor?

Euribor-EBF believes that, in addition to the internal/external audits at contributors' level on the submission and processes, the index provider and the appointed supervisor should be

responsible for auditing contributed data, by applying a four-eye principle before the publication of the benchmark, and through regular controls on past contributions.

(29) What are the advantages and disadvantages of making benchmarks a regulated activity? Please provide your arguments.

Euribor-EBF believes it is appropriate to have a common set of core principles for benchmarks governance at European and International but underlines the need for specific measures at a technical level, adapted to the features of each benchmark.

In addition, in the Euribor-EBF's opinion, the setting process of measures taken at regulatory and supervisory level must be coordinated with market practitioners, which expertise is needed to ensure that those measures are adapted to the market.

For the same reasons, market practitioners should, through the index provider, continue being involved in the benchmark management. Meanwhile, Euribor-EBF stresses that benchmarks such as Euribor must not be managed by profit-driven private companies.

Chapter 3: The Purpose and Use of Benchmarks

(30) Is it possible and desirable to restrict the use of benchmarks? If so, how, and what are the associated costs and benefits? Please provide estimates.

Restricting the use of benchmarks would lead to an exhaustive revision of many operations linked to these benchmarks which are generated for financial market and the real economy, and thus to a change in their contractual terms, which may lead to potential litigation issue.

A restriction in the use of benchmarks could more generally be applied by establishing 'eligible' benchmarks complying with potential regulation and/or self-regulation.

In addition, Euribor-EBF believes that the market participants should be able to choose which robust and reliable benchmarks are adapted to their needs.

(33) Who should have the responsibility for ensuring that indices used as benchmarks are fit for purpose, the provider, the user (firms issuing contracts referenced to benchmarks), the trading venues or regulators?

Euribor-EBF believes that the benchmarks' construction should remain a market-led initiative and its contributions must come out from entities quoting and providing liquidity to the instrument over which the index is fixed. Its strength and credibility should rest in a strong governance and public supervision.

Assuming that a principle-based regulation is in force, the competent authority (e.g. ESMA) should supervise the compliance of benchmarks through the approval of the detailed implementing measures or self-regulation referring to each of them.

Meanwhile, market participants must ensure that they select appropriate benchmarks suiting their index linked products.

Chapter 4: Provision of Benchmarks by Private or Public Bodies

(34) Do you consider some or all indices to be public goods? Please state your reasons.

Euribor-EBF believes that a distinction has to be done between a public good (provided by public authorities) and an index with a public/social role.

Euribor-EBF acknowledges the important role of Euribor in monetary policy decisions and for the European financial stability, as well as the social role it has taken with time, being used as a reference in a wide range of financial instruments, including loans to SMEs and households. In this perspective, it is important to take adequate measures to preserve its integrity and credibility, through high-level principles for benchmarks, further enhanced contribution processes and governance measures and public supervision.

As the ECB noted in its response to this Consultation³, Euribor-EBF considers that private sector initiatives play an important role in the development of the financial systems and that the regulatory measures envisaged should allow for the development of market-led initiatives. As mentioned previously, market participants' expertise is crucial in order to ensure that the measures taken at Euribor-EBF and regulatory/supervisory level are adopted by the market.

In this context, we do believe that the Euribor index should be run by an independent, non-profit driven structure, with the introduction of public supervision. Euribor-EBF will envisage structural changes if needed and will envisage structural changes if needed and develop further the independence and diversity of the Steering Committee.

Chapter 5: Impact of Potential Regulation: Transition, Continuity and International Issues

As soon as an entity, private or public, has an interest in the level of the final fixing, there may be conflicts of interests. In this context, as stated above, Euribor-EBF believes that the

³ <http://www.ecb.int/pub/pdf/other/ecconsultation-regulationofindices-eurosystemreplyen.pdf>



Euribor index should be run by an independent, non-profit driven structure, with the introduction of public supervision.

Separately, Euribor-EBF believes that the introduction of regulation on benchmarks should focus on high-level principles and allow enough flexibility to adapt to each benchmark's features.

In addition, the impact of introducing a regulatory framework for benchmarks, in particular for the numerous existing contracts, including loans to non-financial institutions, which use these benchmarks as references, should be carefully assessed.

Finally, Euribor-EBF agrees with the ECB's consideration in its response to this Consultation that the process of reforming benchmarks should be coordinated at European and global level to ensure consistency and a level playing field.

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