

- THE VICE CHAIRMAN -

CONFIDENTIAL

Mr Guido Ravoet
Chairman
European Money Markets Institute
Via mail and
email: g.ravoet@emmi-benchmarks.eu

30 June 2016

EMMI Legal Working Group: Euribor Seamless Transition

Dear Mr Ravoet,

The European Financial Markets Lawyers Group (EFMLG) would like to share its considerations on the further development of the Euribor.

As you know, the modification of the calculation methodology of Euribor is a matter of great interest to the EFMLG and has been periodically discussed in its meetings including the participation of EMMI representatives by teleconference. The EFMLG also wrote to the European Commission already in September 2014 requesting explicit EU legislation to accompany the necessary amendments in this benchmark including continuity of contracts. In the last meeting of the EFMLG held on 9 June 2016, the members reiterated its consensus that the changes in the Euribor should be undertaken through the so-called *seamless transition*. In the opinion of the EFMLG members, this is the option that offers less legal risks and, therefore, the one that should be favoured.

The EFMLG supports the efforts undertaken by EMMI to introduce the changes that will make the Euribor a more robust benchmark, fully compliant with the IOSCO recommendations and with the principles of the Benchmarks Regulation. In this regard we appreciate the efforts that EMMI has made so far in order to inform the stakeholders about the project and all its relevant features, as well as offering the possibility of making contributions in the recently launched public consultation. As you also know, the EFMLG has been strongly represented at the Legal Working Group which EMMI set-up to support the changes to the Euribor. We thank you anew for the invitation to the EFMLG to join this group.

In order to minimize the legal risk for stakeholders, including end users in contracts, the opinion of the EFMLG including the EFMLG members participating in the Legal Working Group set-up by EMMI is that before the new methodology for the calculation of Euribor goes live, an official confirmation from the relevant institutions and authorities at EU and national level is needed to the effect that (i) the changes in the definition and methodology of the Euribor are appropriate in order to comply with the new requirements of the Regulation on financial benchmarks, (ii) those changes constitute a mere evolution of the benchmark; and, therefore, (iii) the identity and the underlying interest of the Euribor has not been altered. Thus, the transition would be regarded as a seamless one which would contribute to the necessary legal certainty to

the existing transactions. Such official confirmation contributing to a solid legal certainty is thought to be even more necessary, in the first place, due to the systemic nature of the Euribor which is considered to be one of the major interest reference rates in the global financial system¹ widely used as a benchmark for a large volume and broad range of financial products and contracts (approximately included in a volume of contracts of "€ 150- € 180 trillion"²). .

In the context of legal competences, we have been informed that the Belgian authority, the FSMA, has discussed the matter of the mandatory contributions to the Euribor panel. The EFMLG, on its part, would like to confirm that a larger number of entities with an adequate geographic representation contributing to the Euribor panel will also enhance the legal robustness of the benchmark. Due to the lengthy legal proceedings foreseen in order to make contributions mandatory, it was suggested that other channels be explored immediately to encourage a broader participation in the Euribor panel.

Finally, EMMI may want to consider forwarding this letter to at least the European Commission, the ESAs and the FSMA and probably to IOSCO and the FSB, as these institutions have promoted the reform of financial benchmarks in order to enhance the integrity, reliability and transparency of the benchmark formation process and accordingly are in the best position to undertake the official confirmation action that the EFMLG is suggesting as necessary.

Whilst the EFMLG believes that the amendments to the methodology for the calculation of the Euribor are necessary to restore confidence of the financial markets, the risk of the markets (both wholesale and retail) perceiving that there is a new and different Euribor should be diminished to the maximum possible extent. Otherwise, such risk could eventually affect the continuity of an extremely significant volume of contracts and so could endanger financial stability.

The EFMLG, on its part, is at your disposal for any assistance or support you may need on this matter. Please kindly keep the EFMLG informed on the above questions. We copy the European Banking Federation with which we have also discussed this matter.

Yours sincerely,



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¹ As stated in the report published by the FSB on Reforming Major Interest Rate Benchmarks.

² Market Participants Group on Reforming Interest Rate Benchmarks: "As a result, LIBOR, EURIBOR and TIBOR (the "IBORs") are now used in a wide array of instruments, including credit products and derivatives, as well as a number of corporate contracts, accounting, tax, capital and risk valuation methods. As indicated in the estimates shown in Table 1, LIBOR is the most referenced benchmark in USD, GBP and CHF. **EURIBOR is the dominant rate in EUR products.** JPY LIBOR and TIBOR are the most referenced in JPY. The total notional outstanding amounts for LIBOR are estimated by the MPG at around \$220 trillion. **For EURIBOR the outstanding amount is around \$150-180 trillion** and TIBOR the figure is about \$5 trillion."