

**POINTS FOR DISCUSSION ON “NEGATIVE INTEREST RATES”**

1. What is the market practice in your country regarding loans? Is it usual to include a Euribor"0" clause (meaning Euribor without margin)? If not, what happens if the interest rate goes below "0"? By the nature of the loan, interests shall only be paid in favor of the lender. Is this statement correct in your country or are there doubts? Have the courts/others already stated something in relation to this matter? Is it usual to include a clause stating that “Euribor+margin” can never be below 0”?

Is the situation equal for retail clients and for wholesale banking clients? Can we include Euribor "0" provision for retail clients? Under which conditions?

Do you think it is possible to consider that the borrower is the only one that can be obliged to pay interests, but that it can be considered that the obligation is on a "global" basis and thus negative interests in one period can be "compensated" with positive interests in another period?

2. Same questions for deposits. Is it possible for the depositor to be obliged to pay interests to the bank if the interest rate goes below "0"? Or only when the agreement provides this explicitly? Do deposit agreements with retail clients include any provision regarding negative interest rates? Legal nature of the agreement. If charging negative interest is not possible, could charging a “fee” (equal to the negative interest) be a valid alternative?
3. Do you see a possible ground for claims on that there may be an "unfair/unjust enrichment" on the basis that, if the Banks did not lend money they would be depositing it with the BCE and thus it would have a cost for them? Accordingly, the Banks' "benefit" should be reduced to the "Margin" and, if the negative Euribor is higher than the margin, the banks should be paying interests to the clients because they would still be receiving the margin? We think this is a wrong statement because the "benefit" of the Banks has to be compared with the cost of the Banks' deposits (not with the deposits in the BCE).
4. We can briefly talk about bonds and derivatives. In the bonds markets, would it be advisable to include any clause in the prospectus? Derivatives: in relation to derivatives, please specify whether domestic master agreements include provisions regarding negative interest rates. As far as collateral is concerned, we assume it depends on the negotiation with the relevant counterparty.
5. Loans and interest rate hedging (derivatives): in case of a (explicitly or implicitly) floored loan and a non-floored interest rate derivative (in general: to “convert” the floating rate into a fixed rate for the client), there might be a mismatch between the loan and the derivative. Any experience with such cases in your country? Would the terms of the agreement (providing the mismatch) prevail in the event that these terms do not meet the client's objectives or of if the client was (e.g. long time ago) not informed about the fact that such mismatch could occur?