

Report

Review of the Implementation of EBA-ESMA Recommendations to Euribor-EBF

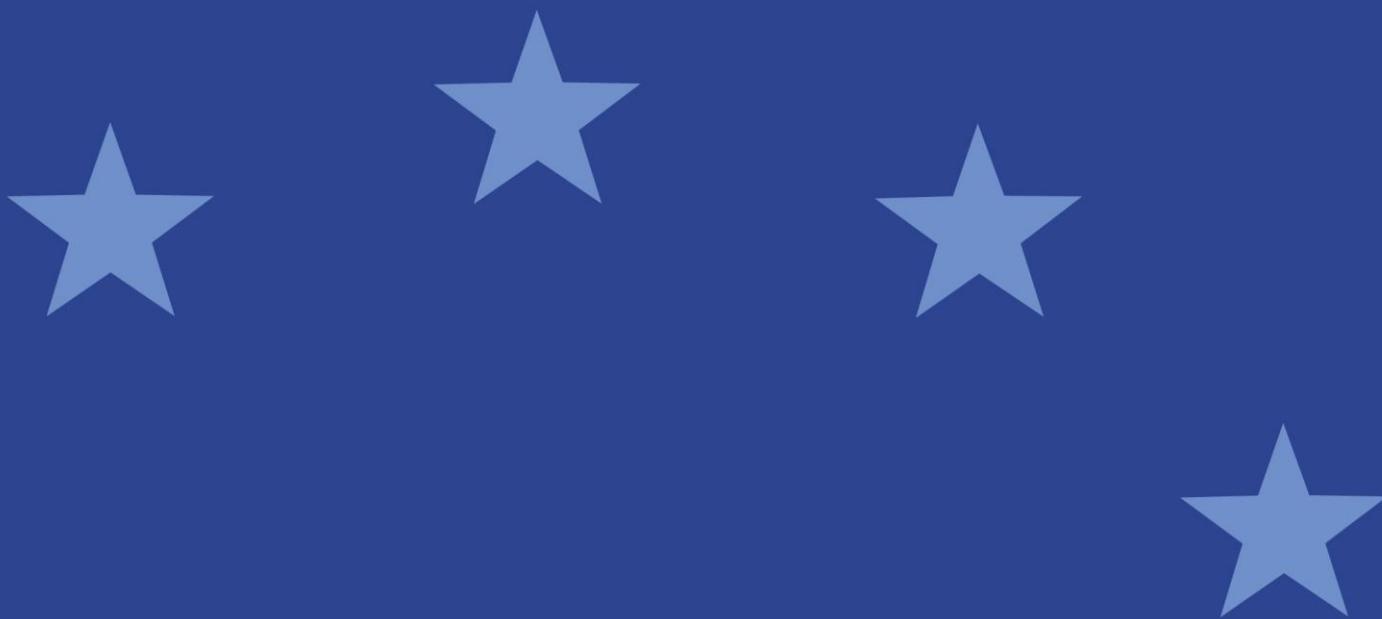


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List of abbreviations

CoC CA	Code of Conduct of the Calculation Agent for Euribor
CA	Calculation Agent for Euribor
CEO	Chief Executive Officer
CoIP	Conflicts of Interest Policy
COPB	Code of Obligations of Panel Banks
EBA	European Banking Authority
EBF	European Banking Federation
ESMA	European Securities and Markets Authority
Euribor-EBF Board	Board of Directors of Euribor-EBF
Euribor CoC	Code of Conduct of Euribor-EBF
FSB	Financial Stability Board
IBOR	Interbank Offered Rate
IOSCO	International Organization of Securities Commissions
ISDA	International Swaps and Derivatives Association Inc.
OSSG	Official Sector Steering Group
SC	Euribor Steering Committee

Executive summary

Reasons for publication

On 11 January 2013, ESMA and EBA published the joint “EBA-ESMA Report on the Administration and Management of Euribor” including a set of Recommendations to Euribor-EBF (hereinafter “the Recommendations”) to address what EBA and ESMA have identified as weaknesses and insufficiencies in the governance and technical framework of Euribor. These insufficiencies required immediate attention on the part of the administrator and other parties involved in the benchmark process.

This report reviews the progress made by Euribor-EBF in implementing the Recommendations in the context of the on-going Euribor reform. It is intended to inform the administrator, Calculation Agent, panel banks, benchmark users and the wider public of the progress in reforming the Euribor benchmark.

The review of the Recommendations is not a supervisory or enforcement investigation under formal powers. It does not prejudice investigations into potential manipulations of benchmarks, nor on-going benchmark reform initiatives as undertaken by ESMA, EBA and the other EU Institutions, the FSB, or IOSCO.

General Assessment

Euribor-EBF is assessed to have made significant progress between 11 January 2013 and 31 December 2013 in implementing the Recommendations. The work completed by Euribor-EBF and their on-going reform efforts are suited to raise transparency of the benchmark-setting process, enhance governance of the benchmark, and improve the quality of the resulting index.

The Euribor-EBF work in response to the Recommendations concerns all areas covered by the Recommendations. In particular, substantial reform progress has been achieved on the governance of the benchmark, the composition and governance of the Euribor-EBF Steering Committee, the reduction of tenors, and the definition of minimum expectations regarding the internal procedures and controls being applied by the Calculation Agent. Further notable progress has been achieved with respect to conflicts of interest policies at the level of the administrator and Calculation Agent, and measures to ensure data consistency and quality.

The implementation of some Recommendations requires further attention. The changes at Euribor-EBF are undertaken in the wider context of concurrent reform efforts at regulatory level, including the Principles for Benchmarks as provided by EBA-ESMA and IOSCO, the proposed EU legal framework for benchmarks, and the work on system reform undertaken by the FSB. In addition, they need to respond to any new industry standards and best practices as administrators of interbank offered rates around the world are making advances on improving their systems, methods, governance, transparency, and contingency.

ESMA and EBA strongly encourage Euribor-EBF to continue addressing these regulatory and industry advances on benchmark reform decisively and without delay.

Next steps

ESMA and EBA will continue monitoring the implementation of the Recommendations and may provide guidance on an ad-hoc basis going forward until an EU regulatory and supervisory framework for benchmarks has entered into force.

I. Background

- 1 On 11 January 2013, EBA and ESMA published the joint “EBA-ESMA Report on the Administration and Management of Euribor”¹ including the Recommendations to Euribor-EBF to address what EBA and ESMA have identified as weaknesses and insufficiencies in the governance and the technical framework of Euribor. These insufficiencies required immediate attention on the part of the administrator and other parties involved in the benchmark process.²
- 2 The Recommendations to Euribor-EBF addressed the most pressing problems of the Euribor benchmark at the time, when reform activities were still under discussion and a new legal framework for benchmarks in the EU had not been proposed. Thus, the Recommendations addressed specific problems of a specific benchmark, when other guidance by the public sector was not available.
- 3 Extensive reform initiatives have been undertaken by the European Commission, FSB, IOSCO, ESMA and EBA since the Recommendations were issued. Those reforms measures formulate a more universal view on the design and governance of the rate setting process compared to the Recommendations, i.e. for benchmarks in the EU and at global level.
- 4 The following measures were initiated since the Recommendations were issued:
- 6 June 2013: ESMA and EBA issued the “ESMA-EBA Principles for Benchmark-Setting Processes in the EU” (ESMA 2013/658) setting out a general framework for Benchmark Setting as well as additional detailed guidance for Benchmark Submitters, Benchmark Calculation Agents, Benchmark Publishers, Benchmark Users, and Principles for the Continuity of Benchmarks.
 - 17 July 2013: IOSCO issued Principles for financial benchmarks³.
 - 18 September 2013: The European Commission put forward a legislative proposal for the Regulation on Indices used as Benchmarks in Financial Instruments and Financial Contracts (COM(2013) 641/2)). The proposal is currently being considered under the EU legislative procedure.
 - A number of workstreams have been approved at FSB level which look into observance of the IOSCO Principles and issues of wider system reform.
- 5 This Review forms part of these on-going reform initiatives at international and EU level to strengthen the governance and setting of financial market benchmarks including the European Commission’s proposal and the ongoing reform activities in the various work streams at FSB level.
- 6 However, this Review focuses exclusively on the progress made by Euribor-EBF in implementing the EBA-ESMA Recommendations and does not in any way prejudice the outcome of any of the above mentioned reform activities. In particular, it does not address the implementation of other reforms of regulatory guidance, including the EBA-ESMA Principles and IOSCO Principles, which differ in scope and granularity from the Recommendations.
- 7 The Review focuses in particular on governance issues regarding the administrator, Calculation Agent and panel banks as reflected by the Recommendations. It acknowledges that farther-

¹ http://www.esma.europa.eu/system/files/eba_bs_2013_002_annex_1.pdf

² A general framework for Benchmark Setting as well as additional detailed guidance for Benchmark Submitters, Benchmark Calculation Agents, Benchmark Publishers, Benchmark Users, and Principles for the Continuity of Benchmarks were subsequently provided in the form of the “ESMA-EBA Principles for Benchmark-Setting Processes in the EU” (ESMA 2013/658) issued by EBA and ESMA on 6 June 2013 (http://www.esma.europa.eu/system/files/2013-658_esma-eba_principles_for_benchmark-setting_processes_in_the_eu_-_final_report.pdf). ESMA and EBA plan to conduct a review of the application of the principles eighteen months after their publication, but may alter that timeframe should they deem it to be appropriate or necessary.

³ IOSCO, “Principles for Financial Benchmarks”, Madrid, 17 July 2013, <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf>

reaching reform measures which would affect the core of the Euribor benchmark, e.g. key definitions or further anchoring of interbank reference rates in transactions data, are being considered in the context of wider system reforms, also at FSB level.

- 8 The Review acknowledges that reform activities are on-going and that the current Review reflects what has been achieved to date with specific reference to the Recommendations. The Review takes note that Euribor-EBF is committed to continuing their reform efforts in response to the EU and international benchmark reform agenda as it continues to evolve.
- 9 In particular, Euribor-EBF's reform efforts will
- need to observe the ESMA-EBA Principles for Benchmark-Setting Processes and the IOSCO Principles for Financial Benchmarks;
 - be reviewed in detail in light of the Principles for benchmarks established by IOSCO;
 - need to comply with any potential EU legal framework for benchmarks – once adopted and entered into force;
 - need to be brought in line with any reform requirements that may emanate from the FSB's work on interbank reference rates in the context of the Official Sector Steering Group (OSSG);
 - need to respond to any new industry standards and best practices as administrators of interbank offered rates around the world are making advances on improving their systems, methods, governance, transparency, and contingency.
- 10 Please note that the Review of the Recommendations is not a supervisory or enforcement investigation under formal legal powers with respect to the administrator, Calculation Agent or contributing banks. It is intended to inform these parties and the wider public of the progress made in reforming the Euribor benchmark.

II. Overview of Euribor-EBF reform measures

- 11 Since the issuance of the Recommendations, Euribor-EBF has worked on reforming the governance framework of Euribor in a number of key areas. Euribor-EBF has furthermore developed a framework to systematically address data quality issues. Key reform activities include the following:
- Euribor-EBF changed the composition of the Steering Committee to reduce the number of members affiliated with panel banks and increased the frequency of Steering Committee meetings.
 - Euribor-EBF specified Euribor key definitions and reflected them in the Euribor Code of Conduct.
 - Euribor-EBF discontinued less used tenors, reducing the overall number of tenors from 15 to eight.
 - Euribor-EBF improved and reinforced the Code of Conduct (Euribor CoC) at administrator level. The new Euribor CoC was published on 1 October 2013 with a six-month transitional period running until 1 April 2014.
 - Euribor-EBF implemented a Code of Obligations for Panel Banks (COPB), effective as of 1 October 2013. The COPB sets uniform minimum requirements for the submission process and control mechanisms at individual panel banks.
 - Euribor-EBF defined minimum expectations regarding the internal procedures and controls being applied by the Calculation Agent within a Service Level Agreement.⁴
 - Euribor-EBF requested the Calculation Agent to specify the rules governing its operations with regard to the calculation of Euribor. The Calculation Agent developed a Code of Conduct (CoC CA) for its operations effective as of 1 July 2013.
 - Euribor-EBF commissioned an external consultant to help defining post-fixing checks and back-testing analysis. Euribor-EBF started implementing the proposed measures and presented a first draft report of back-testing results to the Euribor Steering Committee.
 - Euribor-EBF adopted two distinct new Conflict of Interest policies (CoIP) covering respectively potential conflicts at Euribor level and the Euribor-EBF level.
 - In order to monitor potential conflicts at the administrator level, a new independent oversight committee was established in the CoIP.
 - The General Assembly adopted on 13 December 2013 the revised Articles of Association and Rules of Procedure for Euribor-EBF, in order to establish asymmetric membership between EBF and Euribor-EBF.
 - Euribor-EBF committed to perform both internal and external audits on a regular basis and disclose results of the external audit as soon as the reform is completed.
 - Euribor-EBF committed in the Euribor CoC to establish a new record-keeping policy. The Calculation Agent implemented the new requirements in the CoC CA.

⁴ At the time the report was conducted Thomson Reuters acted as the Calculation Agent of Euribor. However, as of 11 May 2014 Global Rate Set Systems (GRSS) becomes the new Calculation Agent of Euribor. Any change in the Calculation Agent must in no way impair the implementation of the Recommendations.

III. General assessment of Euribor-EBF reform measures

- 12 Euribor-EBF is assessed as having made significant progress between 11 January 2013 and 31 December 2013 in implementing the Recommendations. The work completed by Euribor-EBF and their on-going reform efforts are suited to raise transparency of the benchmark-setting process, enhance governance of the benchmark, and improve the quality of the resulting index.
- 13 The Euribor-EBF work in response to the Recommendations concerns all areas covered by the Recommendations. In particular, substantial reform progress has been achieved on the governance of the benchmark-setting process, the composition and governance of the Euribor-EBF Steering Committee, the reduction of tenors, and the definition of minimum expectations regarding the internal procedures and controls being applied by the Calculation Agent. Further notable progress has been achieved with respect to conflicts of interest policies at the level of the administrator and Calculation Agent, and measures to ensure data consistency and quality.
- 14 Since the issuance of the EBA-ESMA Recommendations, the progress made by Euribor-EBF on implementing the ten Recommendations as of 31 December 2013, reflects that Euribor-EBF has undertaken reform measures across the whole range of areas addressed in the Recommendations, with implementation of four Recommendations and partial implementation of six Recommendations. In several of the latter areas, the initiated reforms are approaching full implementation as the far-reaching reform process at Euribor-EBF is progressing.
- 15 Regarding the Recommendations on which progress has been made and full implementation is still pending, EBA and ESMA urge Euribor-EBF to conclude their work without delay.
- 16 The Euribor-EBF reform measures are undertaken in the wider context of concurrent reform efforts at regulatory level, including the proposed EU legal framework for benchmarks, the Principles for Benchmarks as provided by EBA-ESMA and IOSCO, and the work on system reform undertaken by the FSB. In addition, they need to respond to any new industry standards and best practices as administrators of interbank offered rates around the world are improving their systems, methods, governance, transparency, and contingency.
- 17 ESMA and EBA strongly encourage Euribor-EBF to continue responding to these regulatory and industry advances on benchmark reform decisively and without delay. Any change in the Calculation Agent must in no way impair the implementation of the Recommendations.
- 18 An overview of the assessment for each recommendation is provided in the table below. A specification of the assessment approach is provided in the Annex to this Review.

Summary of qualitative assessment of Euribor-EBF reform progress			
Recommendation		Key reform achievements	Main further action recommended
1	Steering Committee composition	<ul style="list-style-type: none"> — Changes in the composition of Steering Committee to reduce the share of members affiliated with panel banks — Publication of CVs and declarations of conflicts of interest of the Steering Committee members 	— Move to minority membership of panel banks
2	Steering Committee meetings	<ul style="list-style-type: none"> — Steering Committee meetings held every two months in 2013 — Timely publication of minutes 	— Ensure continued implementation
3	Reduction of tenors	— Discontinuation of less used tenors, reducing the overall number of tenors from 15 to eight.	— Continue monitoring market use of tenors
4	Refinement of underlying key	— Requirement for Panel Banks to set “prime bank” criteria and ensure anchoring of quotes in	— Continue monitoring the appropriateness of

	definitions	verifiable data.	“prime bank” definition going forward
		<ul style="list-style-type: none"> — Codification of key definitions underlying Euribor 	
5	Full responsibility for the quality and accuracy of data submissions	<ul style="list-style-type: none"> — Codification of the tasks and obligations of all parties involved in the rate setting process — Introduction of minimum requirements for the submission process and control mechanisms at individual panel banks — Development of pre- and post-fixing checks and reports — Commitment to further improve back-testing procedures at the administrator level, first report to Steering Committee — Employment of external consultant to further substantiate efforts on data quality and accuracy 	<ul style="list-style-type: none"> — Ensure full implementation of proposed tests and procedures at earliest possibility — Establish sound and robust procedures and organisational arrangements to ensure consistent follow-up with panel banks — Systematically assess extent to which submitted quotes reflect verifiable data in underlying markets — Verify compliance of panel banks with Code of Obligations of Panel Banks
6	Euribor Code of Conduct	<ul style="list-style-type: none"> — Adoption of a revised Code of Conduct, reinforcing governance and control procedures — Adoption of a Code of Obligations of Panel Banks and the Calculation Agent — Adoption of Conflict of Interest policies at administrator and Steering Committee level 	<ul style="list-style-type: none"> — Clarify Code of Conduct and Conflict of Interest Policies
7	Internal and external audits of the administrator	<ul style="list-style-type: none"> — Commitment to perform and disclose the results of internal and external audits 	<ul style="list-style-type: none"> — Conclude audits and disclose results at earliest possibility
8	Internal procedures and controls by Calculation Agent	<ul style="list-style-type: none"> — Definition of the minimum requirements regarding the calculation and publication of Euribor in a codified framework — Formulation of minimum requirements regarding internal procedures and controls in a Service Level Agreement with the Calculation Agent 	<ul style="list-style-type: none"> — Ensure continued implementation
9	Code of Conduct, internal and external audits of the Calculation Agent	<ul style="list-style-type: none"> — Adoption of a Calculation Agent Code of Conduct — Obligation to annually confirm the compliance with the code — Requirement to regularly conduct internal and external audits 	<ul style="list-style-type: none"> — Perform internal and external audits of Calculation Agent at earliest possibility
10	Record-keeping	<ul style="list-style-type: none"> — Introduction of a new record-keeping policy comprising all parties involved in the rate setting process — Anchoring of the new requirements in the Code of Conduct of the Calculation Agent 	<ul style="list-style-type: none"> — Enhance the framework for Euribor-EBF record keeping

Note: Evidence taken into account as of 31 December 2013.

IV. Review

Recommendation 1

EBA-ESMA Recommendation

The governance must improve immediately and the composition of the Euribor Steering Committee should be broadened to make it more independent of the banking industry and more generally diverse. Specifically, it should include members who are not affiliated with panel banks (or with banks in general). Independent Steering Committee participants would inherently represent a counterbalance to panel bank committee members who currently represent a large majority. The number of members from panel banks should be limited to a minority. Details of the membership should be made public, along with any declarations of conflicts of interests and the processes for election or nomination of the Steering Committee members.

Implementation status as of 31 December 2013

19 Partially implemented.

Reform activities

20 The Euribor Steering Committee (SC) has been reformed, and had its first meeting in its new composition in July 2013.

21 The Euribor CoC was published on 1 October 2013 with a six-month transitional period running until 1 April 2014⁵. It specifies the reformed composition of the SC. According to the Euribor CoC, the SC shall consist of ten members, one chairman, five independent experts (not affiliated with panel banks) and four experienced market practitioners directly involved in market operations from either panel banks or subsidiaries of panel banks.⁶

22 The Euribor CoC describes the selection process. Selection will be proposed by the Euribor-EBF Board and approved by the General Assembly.⁷

23 Euribor-EBF has published the membership together with biographies of the members on their internet site.⁸ Of the ten members, four members are directly affiliated with Euribor panel banks (CECA, Commerzbank, Natixis, Unicredit). One member is indirectly affiliated with panel banks

⁵ Euribor-EBF: “Euribor Code of Conduct”, Brussels, 1 October 2013. http://www.euribor-ebf.eu/assets/files/Euribor_code_conduct.pdf

⁶ Euribor-EBF: “Euribor Code of Conduct”, Brussels, 1 October 2013, Section A.1.2. “The composition of the SC shall be diversified to ensure that the members from the Euribor panel banks always represent a minority of its membership. The Steering Committee will consist of ten members: one Chairman, five independent experts with recognized standing and experience in financial markets and four experienced market practitioners directly involved in market operations or who bear direct responsibility in their bank for these activities. If the Steering Committee is composed of less than ten members, the Board of Directors of Euribor-EBF will make best efforts to propose without undue delay to the General Assembly the appointment or replacement of members to bring the composition of the Steering Committee to ten members.”

⁷ Euribor-EBF: “Euribor Code of Conduct”, Brussels, 1 October 2013, Section A.1.3 and A.1.4. “The Chief Executive of Euribor-EBF is the permanent member and Chairman of the Steering Committee. The other members have a mandate of 2 years. This mandate is renewable. All the members are appointed on a personal basis, must be independent and not subject to instructions from the companies or organisations to which they belong. Each member of the Steering Committee must submit and sign a declaration of conflicts of interest. [...] The members of the Steering Committee shall be directly appointed and revoked by the General Assembly of Euribor-EBF, under a proposal of the Board of Directors of Euribor-EBF. If a member is revoked, or ceases to be a member for any other reason before the expiry of his or her mandate, another member may be appointed. The list of members of the Steering Committee will be publicly available, together with their individual CVs and their declarations of conflicts of interest.”

⁸ Current members, with mandates ending June 2015: Chairman: Guido Ravoet, Euribor-EBF. Members: Andreas Biewald, Commerzbank. Olivier Brissaud, European Association of Corporate Treasurers. Bruno Colmant, Roland Berger. Alberto Covin, Unicredit. Philippe Jeanne, Natixis, Euribor-ACI. Karel Lannoo, Centre for European Policy Studies (CEPS). Robert Peirce, formerly PWC. Patrick Siméon, Amundi. José Maria Verdugo, Confederación Española Cajas de Ahorros (CECA).

through his current employer, Amundi, which is a company jointly owned by Crédit Agricole and Société Générale,⁹ both panel banks of Euribor.

24 The SC members have signed conflicts of interest declarations which have been published on the Euribor-EBF website.¹⁰

Assessment

25 The Recommendation requires members affiliated with panel banks to be in a minority.

26 The current composition of the SC is not fully consistent with the Recommendation. Members of the SC who are directly or indirectly affiliated with Euribor panel banks number five out of ten, and the composition therefore falls short of the requirements in the Recommendation that members affiliated with panel banks should be in a minority on the SC.

27 The Euribor CoC's disclosure requirements as well as disclosure practices regarding the SC composition and independence are consistent with the Recommendation.

Recommended further actions

28 Implement the required minority membership position of panel banks on the SC in practice.

Recommendation 2

EBA-ESMA Recommendation

The Steering Committee should hold no less than one bi-monthly meeting and promptly afterwards should produce and post transparent minutes.

Implementation status as of 31 December 2013

29 Implemented.

Reform activities

30 The Euribor CoC requires meetings of the SC on average every two months. The SC had its first meetings in the new composition on 4 July 2013, 26 September 2013 and 3 December 2013. Forthcoming meetings in 2014 are scheduled every two months.¹¹

31 The minutes of the first meeting have been published on 9 July 2013 on the Euribor-EBF internet site, and minutes from the second and third meeting were respectively published on 18 October 2013 and 20 December 2013.

Assessment

32 Euribor-EBF implemented the recommendation.

33 The implementation of the Recommendation requires on-going monitoring in future.

⁹ Société Générale: "2013 Registration Document", Paris, 4 March 2013. http://www.societegenerale.com/sites/default/files/documents/Societe-Generale_DDR2013_UK.pdf.

¹⁰ <http://www.euribor-ebf.eu/euribor-org/steering-committee.html>.

¹¹ Euribor-EBF: "Euribor Code of Conduct", Brussels, 1 October 2013, Section A.1.5. "The meetings of the Steering Committees are called by the Chairman, on average every two months, and are attended in person or by electronic means (e.g. teleconference and/or video conference). A member who does not attend more than three consecutive physical meetings shall be replaced. The Steering Committee publishes the summary of conclusions of its meetings after approval by its Chair and members."

Recommended further actions

- 34 No further immediate action required.
- 35 The continued implementation of the Recommendation requires on-going monitoring in future.

Recommendation 3

EBA-ESMA Recommendation

The references of Euribor should focus on maturities with the highest use and volume of underlying transactions. Rates should be scaled down from 15 currently (1 to 3 weeks and 1 to 12 months) to no more than 7 (1 and 2 weeks, 1, 3, 6, 9 and 12 months) at the maximum and fewer if appropriate. The reduction in the number of tenors would concentrate on eliminating those tenors that are already proven to be less used and of which fewer financial instruments are priced. Such a reduction would therefore have the benefit of simplifying the submission process without creating major financial stability risks in the transition process.

Implementation status as of 31 December 2013

- 36 Implemented.

Reform activities

- 37 Euribor-EBF consulted the panel banks in April 2013 on the potential impact of a discontinuation of less used tenors. Based on the feedback, the SC agreed to continue the 1, 2 week, 1, 2, 3, 6, 9 and 12 month tenors and discontinue the 3 week, 4, 5, 7, 8, 10 and 11 month tenors. The General Assembly at its meeting on 12 September 2013 decided to discontinue said tenors starting 1 November 2013¹². The tenors were discontinued on that date. As of 31 December 2013, the Euribor benchmark comprises eight tenors, namely the 1, 2 week, and the 1, 2, 3, 6, 9, 12 month tenors.
- 38 Euribor-EBF had informed various associations representing different stakeholders of their intention to discontinue less used tenors. ISDA prepared a protocol for discontinuation of these tenors which was published on 14 October 2013.
- 39 In deviation from the EBA-ESMA Recommendation, the 2 month tenor was decided to be continued, as market participants expressed interest in the maintenance of that particular tenor.
- 40 Euribor-EBF asked in the consultation whether the 2 week tenor should be discontinued instead of the 2 month tenor.¹³ The consultation results showed that there is some interest in continuing the 2 week tenor¹⁴ and, hence, the 2 week tenor was retained.

¹² Euribor-EBF: "Reduction in the number of Euribor tenors as of 1 November 2013", Brussels, 23 October 2013.

¹³ Euribor-EBF: "Euribor-EBF consultation on the reduction on the number of Euribor maturities", Brussels, 19 April 2013, "In this context Euribor-EBF recommends the downgrade from the current 15 maturities (1-3 weeks and 1-12 months) to the following 7 maturities: 1 week, 1 month, 2 months, 3 months, 6 months, 9 months, 12 months. Although initially the tenors suggested by EBA and ESMA in the third recommendation were 1 and 2 weeks, 1, 3, 6, 9 and 12 months, it was recommended to substitute the 2 week tenor by the 2 month tenor."

¹⁴ Euribor-EBF: "Panel bank's answers to the consultation on the reduction in the number of Euribor maturities", Brussels, 13 May 2013, "Generally most of the banks, 19 out of 29, agreed that the proposed discontinuation of maturities (2, 3 weeks, 4, 5, 7, 8, 10, 11 months) will not have a significant impact on the existing contracts. 5 banks pointed out that the discontinuation of the 2 week maturity could have a deeper impact as it could create a significant gap between 1 week and 1 month, and proposed keeping the 2 week maturity. In addition, it was suggested to carefully assess existing agreements even if the references proposed to be discontinued are not used in the majority of transactions."

Assessment

41 Euribor-EBF has discontinued those tenors which were used to a limited extent by markets and with respect to which only few financial instruments were priced. The number of tenors calculated was reduced from fifteen to eight, as a result.

42 Panel banks and possible end-users of the benchmark made the case against eliminating the 2 month tenor. In particular, some market participants expressed that they expected a potential increase in market liquidity in one to two month interbank markets in the wake of the implementation of the Liquidity Coverage Ratio as foreseen by CRD IV.

43 The rationale for not including the 2 month tenor in the downsizing efforts is considered appropriate. The case is sufficiently strong to consider the Recommendation as implemented, while the use of the 2 month tenor, like that of other tenors, should be reviewed on a recurring basis.

Recommended further actions

44 Euribor-EBF should review on a recurring basis the use and underlying volumes of the tenors it offers, and consider further reduction in the number of tenors if appropriate.

Recommendation 4

EBA-ESMA Recommendation

The Euribor definition should be adjusted for more clarity. In particular, the term “prime bank” needs a clear definition. The term “interbank transactions” also needs to be clarified and if needed to be broadened and adjusted.

Implementation status as of 31 December 2013

45 Implemented.

Reform activities

46 Euribor-EBF has responded to the Recommendation by further refining key definitions of Euribor and by including them in the Euribor CoC as of 1 October 2013¹⁵.

47 Euribor-EBF has furthermore developed and published a Code of Obligations for Panel Banks¹⁶, which requires panel banks to set criteria for what they consider to be a prime bank and ensure that their quotes are anchored in verifiable data.

48 The Euribor CoC specifies the following definitions:

- Interbank transaction: “‘Interbank transaction’ should be understood as a cash deposit between two credit institutions maturing by one year from inception.”
- Panel bank: “A ‘panel bank’ should be understood as a bank contributing to the Euribor index, by providing daily quotes of the rate, rounded to two decimal places; each bank belonging to the panel submits the rates that it believes one prime bank is quoting to another prime bank for interbank term deposits within the euro zone.”

¹⁵ Euribor-EBF: “Euribor Code of Conduct”, Brussels, 1 October 2013, p. 2.

¹⁶ Euribor-EBF: “Euribor – Code of Obligations of Panel Banks”, Brussels, 1 October 2013. The COPB took effect on 1 October 2013, and panel banks are required therein to take active steps to comply with the provisions as quickly as possible and should achieve full compliance within six months of the effective date. The COPB is intended to be reviewed by the Euribor Steering Committee at least annually. Enhancements are expected to be introduced where appropriate in order to cope with changes in market conditions, relevant legislation or regulation, and the development of enhanced international standards for benchmark determination. Panel Banks are required to confirm compliance with the COPB to Euribor-EBF, as part of their annual acknowledgement of compliance with the Euribor Code of Conduct.

- Prime bank: “A ‘prime bank’ should be understood as a credit institution of high creditworthiness for short-term liabilities, which lends at competitive market related interest rates and is recognised as active in euro-denominated money market instruments while having access to the Eurosystem’s (open) market operations.”

49 The definition of prime banks in the Euribor CoC was formulated after initial deliberation and consultation with panel banks. The SC discussed options for further refining the prime bank definition again at its last meeting on 3 December 2013.

50 Possible options for further refinement that were discussed included: (i) establishing a list of prime banks, (ii) further defining a prime bank’s creditworthiness by setting rating thresholds.

51 The SC decided to adopt the broad definition as cited above, based on the reasoning that a broad definition provided stronger incentives for participating in the rate submission process, thereby supporting the continuity of the benchmark.

52 Euribor-EBF indicated the SC might raise the issue again following the FSB OSSG and Market Participants Group’s conclusions regarding system reform.

Assessment

53 The definitions for “interbank transactions” and “panel bank” have been clarified, and promote a better understanding of the Euribor rate towards consistently generated panel submissions. The recommendation is assessed implemented in this respect.

54 The “prime bank” definition, as specified by the Euribor CoC, is considered consistent with the current Euribor definition while specifying in greater detail access to the Eurosystem’s open market operations, high credit worthiness and activity in euro money markets.

55 The clarification of the definitions and their anchoring in the Euribor CoC are important steps towards eliminating any ambiguities with respect to key definitions of Euribor.

56 ESMA and EBA acknowledge that further refinement of the “prime bank” definition could affect the core of the benchmark setting process, and in particular panel banks’ ability to contribute to the benchmark, which would require special and careful attention in the context of ongoing system reforms, also at FSB level.

Recommended further actions

57 Continue monitoring the appropriateness of “prime bank” definition going forward.

Recommendation 5

EBA-ESMA Recommendation

Euribor-EBF should assume full responsibility for the quality and accuracy of the data being submitted by the panel banks and subsequently being collated, calculated and distributed by Thomson Reuters. In this context, substantive back-testing of the quoted rates should be performed on a regular and consistent basis, with the results reported to the Euribor Steering Committee.

Implementation status as of 31 December 2013

58 Partially implemented.

Reform activities

59 Euribor-EBF has taken steps to put in place reforms aimed at improving the quality and accuracy of data submitted by panel banks and the collation, calculation, and distribution. Measures have been taken in three areas:

- Introduction of a Code of Obligations for Panel Banks (COPB).

- Introduction of a Code of Conduct of the Calculation Agent (Ca CoC).
 - Initiation of a Euribor-EBF-led project on defining pre- and post-fixing checks and back-testing analysis.
- 60 Euribor-EBF implemented the COPB effective as of 1 October 2013, which sets uniform minimum requirements for the submission process and control mechanisms at individual panel banks.¹⁷
- Euribor-EBF expects panel banks to comply with the COPB no later than 1 April 2014. The COPB obliges panel banks to annually confirm their compliance with these obligations to Euribor-EBF (COPB Art 4.2).
 - Panel banks must commission an independent review (internal and external audit) and inform Euribor-EBF on any issues raised in these reviews. Euribor-EBF can also commission an external audit based on reasonable grounds (COPB Art 4.2, 7).
 - Substantial breaches must be immediately reported to the bank’s CEO and Board of Directors, to Euribor-EBF and to their competent supervisory authority (COPB, Art 4.2, 7).
- 61 With respect to timeliness and accuracy of submissions, panel banks are further required to:
- establish an effective organisation structure for the oversight, operation and control of Euribor quote submissions (COPB Art 3, Art 4);
 - acknowledge the responsibility for the integrity of their submission activities (COPB Art 4.2);
 - implement the codified general principles for developing and corroborating quote submissions for Euribor.
- 62 Euribor-EBF has commissioned an external consultant to help defining pre- and post-fixing checks and back-testing analysis. The proposed measures include:
- specifying data controls to be implemented by the Calculation Agent;
 - enhancing quality control reporting to the SC;
 - establishing a formal back-testing programme.
- 63 The proposed testing procedures include the following:
- Data controls (pre-fixing) by Calculation Agent: Pre-defined tests to be run by the Calculation Agent prior to fixing during the daily submission window; if the submitted quote falls outside the “normal range”, the submitting bank is flagged on its input screen and Euribor-EBF is notified.
 - Data quality controls (post-fixing) by administrator: Monthly statistics on the participation level of the panel banks, e.g. number of omissions and days of unchanged quotes; data compiled by Euribor-EBF Secretariat and summary reports to SC.
 - Back-testing by administrator: Monthly back-testing and statistics on the participation level of the panel banks; initial review and follow-up with panel banks by Euribor-EBF Secretariat, summary reports to SC.
 - Euribor-EBF has furthermore asked the external consultant to develop testing procedures for assessing how Euribor reflects underlying markets.

¹⁷ Euribor-EBF: “Euribor – Code of Obligations of Panel Banks”, Brussels, 1 October 2013. Panel banks are required to establish general principles for developing and corroborating quote submissions for Euribor, in particular: (a) Comprehensive, structured and documented policies, (b) a periodic review of the approach for determining submissions, (c) effective procedures for quote corroboration with audit trails, (d) clear criteria for prime banks, (e) a list of priorities for data inputs, including transactions data, market quotations and expert judgement, (f) identify a range of objective, verifiable market data to be used as input to informing the daily quote submissions (when possible), (g) to develop a robust infrastructure, with appropriate resiliency and automation, to support the timeliness and accuracy of submissions (COPB Art 5.1).

64 Euribor-EBF has implemented the proposed testing and reporting procedures at the Calculation Agent level.

- The Calculation Agent and Euribor-EBF have concluded a Service Level Agreement defining the daily process of collecting data, running pre-fixing checks and publication of the rate including a process for any re-fixing. The obligations of the Calculation Agent are further referred to in a Code of Conduct for its operations effective as of 1 July 2013.
- The Calculation Agent is expected to carry out pre-fixing routines on that basis and provide pre- and post-fixing data to the administrator for further use in data quality controls and back-testing analysis.

65 Euribor-EBF is implementing the proposed testing and reporting procedures at the administrator level.

- For an interim period, i.e. until back-testing and reporting routines have been established by the administrator, Euribor-EBF has asked the external consultant to start implementing the proposed testing and reporting routines.
- Based on the work of the consultant, Euribor-EBF presented a first overview of certain back-testing statistics to the Steering Committee.
- Euribor-EBF has started hiring one additional staff responsible, amongst other tasks, for the monitoring of the benchmark collection and calculation process.¹⁸

Assessment

66 The COPB defines an adequate set of requirements for the quote submission process in the panel banks in line with Recommendation 5. The Recommendation can be considered implemented in this regard, i.e. to the extent that panel banks comply with the COPB.¹⁹

67 The Service Level Agreement between Euribor-EBF and the Calculation Agent, as well as the other revised contractual documents are set to establish clearer responsibilities and obligations. They have been finalised and are effective as of 1 January 2014. In this regard, Recommendation 5 has been implemented.

68 Euribor-EBF explored data controls and back-testing procedures and assessed how the information extracted can be used to ensure high data quality. While some of the work still has to be finalised, the commitment of Euribor-EBF is in line with the Recommendation.

69 Issues that need to be addressed going forward:

- Proposed testing procedures need to be refined and reviewed on a recurring basis.²⁰

¹⁸ Euribor-EBF staff vacancy note: Brussels, 19 November 2013. "Euribor-EBF [...] is seeking to recruit at a full time position, an Adviser who will be responsible, amongst other tasks, for the overall monitoring of the collection and calculation process of Euribor-EBF benchmarks in the context of the future regulatory framework for benchmarks and participate in the elaboration of new indices. [...] Within the Euribor-EBF, specific focus will lie on ensuring that collection and calculation processes of Euribor-EBF benchmarks comply with market Principles and European Regulation. In addition, the adviser will coordinate and seek to develop Euribor-EBF sources of revenues." <http://www.euribor-ebf.eu/assets/files/jobs/EURIBOR%20EBF%20Adviser%20Position%202013.pdf>.

¹⁹ Euribor-EBF expects panel banks to comply with the COPB no later than 1 April 2014.

²⁰ The analysis of the Service Level Agreement and the presentations by the external consultant identified some issues that should be considered by Euribor-EBF when further reviewing and refining the proposed testing procedures:

- None of the pre-fixing tests described in the Service Level Agreement would flag to panel banks if their submissions lack variability. Additional tests should be considered.
- One of the pre-fixing tests used for flagging is based on "tentative fixing". This may give panel banks an informational advantage over banks that are not part of the panel if the flagging procedure does not account for this. When using tentative fixing in the flagging process, it should be ensured that submitting banks receive no informational advantage.
- Thresholds for identifying and flagging outliers are mainly based on absolute basis point levels, which may render testing procedures sensitive to changes in the variability and level of the interest rate. Thresholds should be reviewed on a regular basis and adjusted if necessary.

- Sound and robust procedures and organisational arrangements need to be established to ensure a consistent follow-up with panel banks on testing results.
- Submitted quotes should be assessed as to whether they reflect verifiable data in the underlying markets.

Recommended further actions

- 70 Verify and confirm compliance of panel banks with COPB.
- 71 Ensure full implementation of the proposed test and reporting procedures at earliest possibility.
- 72 Establish sound and robust procedures and organisational arrangements to ensure a consistent follow-up with panel banks on testing results.
- 73 Systematically assess the extent to which submitted quotes reflect verifiable data in the underlying markets.
- 74 Ensure continuous review of the back-testing and pre- and post-fixing procedures and adjust to possible structural changes in the data and definitions.
- 75 The continued implementation of the Recommendation requires on-going activity in future.
- 76 Any change in the Calculation Agent must in no way impair the implementation of the Recommendation.

Recommendation 6

EBA-ESMA Recommendation

Euribor-EBF's governance and Code of Conduct need to be improved and reinforced. A specific area for improvement is the identification and management of conflicts of interest. These can arise at multiple levels: within Euribor-EBF itself; within the Euribor Steering Committee; between Euribor-EBF and the Euribor Steering Committee; between Euribor-EBF or the Steering Committee and various national banking associations or panel banks (whether they participate in the Steering Committee or not); among national banking associations or among panel banks; etc. A new enhanced Code of Conduct should also refer to sanctions for breaching various clauses, including the manner in which they would be applied and enforced.

Implementation status as of 31 December 2013

- 77 Partially implemented.

Reform activities

- 78 The Euribor CoC²¹ establishes new rules on:
- Governance and control policies (e.g. SC, Conflict of Interest, whistleblowing mechanism).
 - Obligation of Panel Banks and the Calculation Agent.

-
- Some of the proposed back-testing procedures would benefit from the use of more advanced empirical tools. Testing procedures should be reviewed in this respect and as far as necessary adjusted.

²¹ Euribor-EBF: "Euribor Code of Conduct", Brussels, 1 October 2013. The Euribor CoC contains reformed rules on governance and control (especially regarding the Steering Committee, tasks and rights of the Steering Committee, a control framework, the Conflicts of Interest Policy, accountability procedures, rules for amending documentation related to Euribor, the record-keeping policy, and on transparency), rules applicable to the panel banks (including criteria to qualify for a seat on the panel and application procedure, obligations of panel banks, sanctions), rules for calculating and publishing Euribor (including responsibilities of the Calculation Agent, the compilation and calculation process, the publication of Euribor), as well as the Code of Obligations of Panel Banks, and a Declaration of Adherence with the Code.

— Accountability mechanism (handling of complaints and sanctions).

79 Euribor-EBF adopted two distinct new CoIPs covering respectively the potential conflicts at (i) the Euribor level²², and (ii) the Euribor-EBF level²³.

80 The former CoIP (“Euribor CoIP”) deals with conflicts potentially arising within the SC, between the SC and panel banks, as well as between panel banks and the Calculation Agent.

81 The latter CoIP (“Euribor-EBF CoIP”) deals with potential conflicts at the administrator level, i.e. within the bodies of EBF-Euribor, between Euribor-EBF and the SC, between the SCs of different financial benchmarks, as well as between the administrator and panel banks or national banking associations.

Assessment

82 Recommendation 6 is largely addressed by the adoption of the new Euribor CoC which includes clarifications and modifications to improve the governance of Euribor in key areas:

- governance and control, especially regarding the SC, tasks and rights of the SC, a control framework, the Conflicts of Interest Policy, accountability procedures, rules for amending documentation related to Euribor, the record-keeping policy, and transparency public disclosure of certain governance and rate-setting information²⁴;
- rules applicable to the panel banks, including criteria to qualify for a seat on the panel and application procedure, obligations of panel banks, and sanctions;
- rules for calculating and publishing Euribor, including responsibilities of the Calculation Agent, the compilation and calculation process, and the publication of Euribor;
- as well as the COPB, and a Declaration of Adherence with the Code.

83 The Euribor CoC demands that the SC shall adopt a CoIP, applicable to its members, panel banks, the Calculation Agent and related parties. (Euribor CoC A.4.1).

84 The Euribor CoIP has been adopted by the SC and published by Euribor-EBF on 1 October 2013²⁵. The Euribor CoIP implements Recommendation 6 by addressing potential conflicts of interest that may emerge in the process of determination, calculation and dissemination of Euribor, and integrates the conflicts of interest policies adopted and implemented by each entity contributing to the determination, calculation and dissemination of Euribor, in particular conflicts of interest in provision of investment services, investment activities and ancillary services and in provision of specific financial services. In particular, the Euribor CoIP covers:

- the scope of its application;
- conflicts of interest identification and monitoring;
- conflicts of interest mitigation;
- conflicts of interest management;
- conflicts of interest disclosure; and

²² Euribor-EBF: “Euribor Conflicts of Interest Policy”, Brussels, 1 October 2013. <http://www.euribor-ebf.eu/assets/files/D2776B-2013-Euribor%20conflicts%20of%20interest%20Policy.pdf>.

²³ Euribor-EBF: “Euribor-EBF Conflicts of Interest Policy”, Brussels, 13 December 2013.

²⁴ Euribor-EBF: “Euribor Code of Conduct”, Brussels, 1 October 2013, Section A.8: “The following information on the Euribor governance and rate-setting process shall be publicly disclosed on the Euribor-EBF website: a. The Euribor Code of Conduct, including the Euribor definition and methodology and the rules applicable to the panel banks; b. The list of banks contributing to Euribor and, when applicable, any change in the composition of the panel; c. The composition and minutes of the Euribor Steering Committee; and d. The Euribor daily rates, monthly and yearly averages, as well as the individual panel banks submissions, on a delayed basis. Reasonable means shall be undertaken to ensure that updated postings take place daily, 90 minutes after the fixing time.

²⁵ Euribor-EBF: “Euribor Conflicts of Interest Policy”, Brussels, 1 October 2013.

— the implementation of the Policy.

85 Notwithstanding the above, the Euribor CoIP sets minimum requirements stating that “where any other Party’s applicable Internal Regulation contains more stringent requirements than those contained in this Policy then the more stringent requirements will apply to that Party”²⁶.

86 According to the Euribor CoC (Section A), the SC is the adjudication body with respect to compliance with this policy, including the implementation and monitoring of procedures and policies developed in conjunction with the Euribor CoC.

87 Moreover, the Euribor-EBF CoIP has been adopted by the General Assembly on 13 December 2013. It implements Recommendation 6 by addressing potential conflicts of interest that may emerge at the administrator level, i.e. within the bodies of EBF-Euribor, between Euribor-EBF and the SC, between the SCs of different financial benchmarks, as well as between the administrator and panel banks or national banking associations.

88 In order to monitor potential conflicts at the administrator level, the Euribor-EBF CoIP establishes a new independent oversight committee. The Oversight Committee is composed of three independent persons, one chair and two members (not yet appointed), and:

- takes decisions by simple majority with each person having one vote;
- meets at least once a year;
- publishes an annual report on conflicts of interest management to the General Assembly;
- shall advise the Euribor-EBF Board and the General Assembly on actions to be taken to cope with potential conflicts of interests.

89 Furthermore, the General Assembly adopted on 13 December 2013 the revised Articles of Association and Rules of Procedure for Euribor-EBF, in order to establish asymmetric membership between EBF and Euribor-EBF. As a result, EBF members will not automatically be members of Euribor-EBF, and the two organisations may have different CEOs following a 6 months transitional period.

90 Based on the analysis of the Euribor CoC, the related Euribor and Euribor-EBF CoIPs, the new Articles of Association and related rules of procedure, a number of aspects require further action or clarification, concerning in particular the following issues:

- Members of the independent Oversight Committee are still to be appointed.
- The identification of possible sanctions for breach of the Euribor CoC, other than suspension or exclusion, insofar as this is possible in the absence of an established legal framework. The extent of the powers conferred to the SC and the Oversight Committee as adjudication bodies, and the relations between these bodies, the Euribor-EBF Board and the General Assembly in the implementation of the CoIPs.
- The changes to the Articles of Association and related Rules of Procedure for Euribor-EBF are still to be implemented.

Recommended further actions

91 Appoint members of the Oversight Committee at the earliest possibility.

92 Implement the new Articles of Association and related Rules of Procedure.

93 Clarify the Euribor CoC and the new CoIP in order to address the shortcomings identified above and fully meet Recommendation 6, insofar as this is possible in the absence of an established legal framework.

²⁶ Euribor-EBF: “Euribor Conflicts of Interest Policy”, Brussels, 1 October 2013, [http://www.euribor-ebf.eu/assets/files/D2776B-2013-Euribor %20conflicts%20of%20interest%20Policy.pdf](http://www.euribor-ebf.eu/assets/files/D2776B-2013-Euribor%20conflicts%20of%20interest%20Policy.pdf), p.3.

Recommendation 7

EBA-ESMA Recommendation

Euribor-EBF should perform internal audits. External audits should also have to occur periodically, followed by public disclosure of the results.

Implementation status as of 31 December 2013

94 Partially implemented.

Reform activities

95 Within the self-assessment undertaken for the purposes of this review, Euribor-EBF has committed to perform both internal and external audits on a regular basis and disclose results of the external audit as soon as the reform is completed.²⁷

96 An external auditor has not been appointed as of 31 December 2013.

Assessment

97 The commitment is in line with Recommendation 7.

98 Concrete implementation actions are yet to be taken. Auditors are yet to be appointed.

Recommended further actions

99 Conclude audits at the earliest possibility.

100 The continued implementation of the Recommendation requires on-going activity in future.

Recommendation 8

EBA-ESMA Recommendation

Euribor-EBF should define clearly its minimum expectations regarding the internal procedures and controls being applied by the Calculation Agent. These expectations should include a clear definition of the checks to be performed by the Calculation Agent.

Implementation status as of 31 December 2013

101 Implemented.

Reform activities

102 The Euribor CoC defines basic rules for calculating and publishing Euribor²⁸. In particular, it specifies:

- responsibilities of the Calculation Agent (Euribor CoC C.1);
- the compilation and calculation process (Euribor CoC C.2);
- the contribution of data (Euribor CoC C.2.2);
- the calculation of Euribor (Euribor CoC C.2.3);
- fallback provisions (Euribor CoC C.2.4); and

²⁷ The commitment has not been documented in the Euribor CoC or any other approved Euribor-EBF documents.

²⁸ Euribor-EBF: "Euribor Code of Conduct", Brussels, 1 October 2013, Section C.

— the publication of Euribor (Euribor CoC C.3).

103 The Calculation Agent and Euribor-EBF have developed a Service Level Agreement defining the role of the Calculation Agent in the benchmark setting process, i.e. specifying the collection of data and calculation of the index, pre-fixing sanity checks of submitted quotes, flagging to panel banks, post-publications checks, recalculation routines, reporting obligations and a business continuity plan.

104 The Service Level Agreement itself has been referred to in a side letter between the administrator (Euribor-EBF) and the Calculation Agent. The side letter amends the existing contract between these two parties and clarifies their respective contractual obligations. The Service Level Agreement was signed on 8 January 2014 and is effective immediately.

Assessment

105 Euribor-EBF implemented the recommendation.

Recommended further actions

107 No further immediate action required.

108 The continued implementation of the Recommendation requires on-going activity in future.

109 Any change in the Calculation Agent must in no way impair the implementation of the Recommendation.

Recommendation 9

EBA-ESMA Recommendation

The Calculation Agent (currently Thomson Reuters) should have its own Code of Conduct related to reference-rate setting. It should also perform earmarked internal audits and a once-a-year external audit by Euribor-EBF.

Implementation status as of 31 December 2013

110 Partially implemented.

Reform activities

111 The CoC CA was adopted and has been effective since 1 July 2013. It had to be implemented within six months of that date. The document outlines the responsibilities of the Calculation Agent as calculation and publication agent with respect to Euribor, and covers a wide range of topics including:

- segregation of duties;
- conflict of interest;
- whistleblowing;
- market misconduct; and
- complaint handling.

112 The Calculation Agent's Business Assurance or another designated Independent Audit team will conduct semi-annual internal audits. A list of individuals responsible for the Calculation Agent's compliance with the adopted policies will be provided to Euribor-EBF.

113 The Calculation Agent consents to an annual external review performed by an agent – to be selected by Euribor-EBF – to confirm it is meeting its requirements as per the CoC CA. The external annual audits will be carried out after the six months implementation period.

114 The Calculation Agent will confirm to Euribor-EBF on an annual basis that it complies with the CoC CA.

Assessment

115 The required CoC CA has been established in line with Recommendation 9. The CoC CA has been made contractually binding for the Calculation Agent by cross-referring to it in the side letter amending the existing contract between the administrator and the Calculation Agent (see above under Recommendation 8 for more details on this letter). The policy addresses key aspects of conduct.

116 The CoC CA makes frequent use of cross-references to other internal compliance documents of the Calculation Agent (such as a Code of Business Conduct and Ethics, the Market Misconduct Escalation Policy and Procedures, the Compliance Manual and the Whistleblowing Policy and Procedure). These documents apply to all the activities of the Calculation Agent is engaged in and are not specific to the activities of calculation and publication agent of Euribor. These documents cover the following aspects:

- minimum standards of individual behaviour;
- whistleblowing;
- conflict of interest;
- market misconduct; and
- complaints.

117 The Calculation Agent's commitment to appoint an external auditor – to be selected by the administrator –, while conducting internal audits after the six months implementation period of the CoC CA, is in line with the relevant recommendation.

Recommended further actions

118 The administrator shall ensure that all the various policies referred to in the CoC CA are put in place and are specific to the Calculation Agent's activities as calculation and publication agent of Euribor.

119 Perform the Calculation Agent's internal and external audits at earliest possibility.

120 The continued implementation of the Recommendation requires on-going activity in future.

121 Any change in the Calculation Agent must in no way impair the implementation of the Recommendation.

Recommendation 10

EBA-ESMA Recommendation

Both Euribor-EBF and the Calculation Agent should keep complete, transparent and clear records of all submissions from each panel bank over the years, including data on panel banks which were either not submitting or submitting flawed or disputable quotes over certain days or longer periods. The EBF should maintain an on-going record of individuals responsible for submissions in individual banks.

Implementation status as of 31 December 2013

122 Partially implemented.

Reform activities

123 The Euribor CoC establishes a new record-keeping policy (Section A.4) whereby each actor should retain records relevant to its responsibilities. Physical and electronic records are to be maintained for five years, voice records for two years.

- 124 Euribor-EBF will keep records of:
- minutes of all governance meetings;
 - communication between Euribor-EBF and the Calculation Agent or panel banks;
 - submitted quotes data;
 - designated individuals responsible for submitting quotes on behalf of each panel bank;
 - designated individuals responsible for overseeing or operating daily submissions on behalf of the Calculation Agent;
 - methodologies; and
 - audit reports, either performed internally by Euribor-EBF, the Calculation Agent or externally by an independent auditor.
- 125 The Calculation Agent implemented the new requirements regarding record-keeping in the CoC CA. According to this policy records with respect to Euribor are kept for (at least) five years. Affected records are:
- submitted quotes per bank and name of the individual providing the quote;
 - communications with Euribor-EBF;
 - communication with panel banks;
 - benchmark computation;
 - with respect to compliance, business assurance and external audit reviews; and
 - complaints (in writing only).
- 126 Under the new COPB panel banks are required to appoint at least two submitters and two approvers, to communicate their names to the administrator and to record their names. In addition, panel banks are obliged to document:
- communications between the panel bank and Euribor-EBF and its agents, as well as other panel banks with respect to Euribor-related activities;
 - governance;
 - submitted quotes and internal methodologies outlining their calculation; and
 - complaints with respect to Euribor and their resolution.
- 127 The Calculation Agent and Euribor-EBF have developed a Service Level Agreement defining the role of the Calculation Agent in the benchmark setting process and specifying reporting obligations of the Calculation Agent to Euribor-EBF.
- 128 Euribor-EBF considers adjusting its IT-infrastructure to enhance its ability to meet record keeping requirements.

Assessment

- 129 With the CoC CA, the Calculation Agent has created the basis for adequate record keeping.
- 130 With the Euribor CoC, the administrator has created the basis for adequate record keeping.
- 131 As part of Euribor-EBF's own CoC and on the basis of the new COPB panel banks, the administrator is able to obtain data on "individuals responsible for submissions in individual banks" required for record keeping.
- 132 The Service Level Agreement specifies the data to be reported by the Calculation Agent to Euribor-EBF enabling the administrator to obtain submission data required for record keeping.

- 133 The Calculation Agent's contribution to recording keeping at the administrator level is not further specified in the Service Level Agreement.
- 134 Drawing on the record keeping system of the Calculation Agent, Euribor-EBF obtains data of submitted quotes and other relevant data related to the benchmark setting process to fulfil basic record keeping needs.
- 135 The Recommendation is considered partially implemented to the extent that the technical and reporting framework still needs to be enhanced in order to fully meet minimum standards of complete, transparent and clear record keeping at the administrator level.

Recommended further actions

- 136 Establish and maintain an adequate technical and reporting framework to ensure complete, transparent and clear record keeping of relevant data at the administrator level.
- 137 The continued implementation of the Recommendation requires on-going activity in future.
- 138 Any change in the Calculation Agent must in no way impair the implementation of the Recommendation.

V. Next steps

- 139 The Review takes note that Euribor-EBF is committed to continuing their reform efforts in response to the EU and international benchmark reform agenda as it continues to evolve. In particular, the Euribor-EBF reform measures are undertaken in the wider context of concurrent reform efforts at regulatory level, including the proposed EU legal framework for benchmarks, the Principles for Benchmarks as provided by EBA-ESMA and IOSCO, and the work on system reform undertaken by the FSB. In addition, they need to respond to any new industry standards and best practices as administrators of interbank offered rates around the world are making advances on improving their systems, methods, governance, transparency, and contingency provisions.
- 140 EBA and ESMA strongly encourage Euribor-EBF to continue their reform efforts and complete the pending actions to ensure full implementation of the EBA-ESMA Recommendations. Moreover, Euribor-EBF should ensure compliance with any new requirements emerging from the reform efforts at international and EU level, ensure robustness and reliability of the IBOR system, and match international best practice.
- 141 ESMA and EBA will continue monitoring the implementation of the Recommendations and may provide guidance on an ad-hoc basis going forward until an EU regulatory and supervisory framework for benchmarks has entered into force.

Annex: Assessment approach

142 In response to the request made EBA and ESMA on 25 July 2013, Euribor-EBF provided a self-
assessment on their compliance with the Recommendations to the Authorities.

143 In particular, EBA-ESMA reviewed documentation provided in the context of the self-
assessment, documentation provided by the Calculation Agent, information provided by
Euribor-EBF staff on the occasion of an on-site visit undertaken by EBA and ESMA staff and
other ad-hoc information, and own research undertaken by EBA and ESMA.

144 Implementation of the Recommendations is reviewed following a qualitative approach in
evaluating the reform undertaken and implemented by Euribor-EBF as of 31 December 2013 on
the basis of the information obtained.

145 The status of implementation is assessed Recommendation-by-Recommendation as either
“implemented”, “partially implemented”, or “not implemented”. The respective status of each
Recommendation has been qualified as follows:

- „Implemented: The Administrator has taken decisions, put policies and procedures in place which are in line with the requirements of the Recommendation. The Administrator has demonstrated continued commitment to the Recommendation. The assessment has identified that any gaps and shortcomings are not of concern and should be resolved as the reform process continues.
- „Partially implemented“: The Administrator partly implemented the Recommendation. In cases where the assessment has identified that the Administrator has made substantial progress in implementing the Recommendation, any remaining gaps should be addressed promptly in order to fully and adequately implement the Recommendation. In cases where the assessment has identified one or more issues of concern that could become serious if not addressed promptly, the Administrator should accord a high priority to addressing these issues.
- “Not implemented“: The Administrator did not implement the Recommendation. The assessment has identified one or more serious issues of concern that warrant immediate action. Therefore, the Administrator should accord the highest priority to addressing these issues.

