

**MEMO# 32639**

July 28, 2020

# **LIBOR Update: European Union Benchmark Regulation Proposal**

[32639] July 28, 2020 TO: ICI Members

ICI Global Members

LIBOR Transition Working Group SUBJECTS: Compliance

Financial Stability

Operations RE: LIBOR Update: European Union Benchmark Regulation Proposal

We wanted to alert you to recent developments from the European Commission in the transition from LIBOR.

On July 24, the European Commission issued a proposal to amend the European Union (EU) Benchmark Regulation.[\[1\]](#) The amended regulation would allow the European Commission to designate a replacement benchmark rate to substitute for LIBOR in legacy contracts that still reference LIBOR after it is discontinued or no longer representative. The proposed Benchmark Regulation would apply the replacement benchmark rate only to contracts involving EU-supervised entities, such as banks, investment firms or asset managers.[\[2\]](#)

The proposal contemplates the European Commission taking into account recommendations made by relevant industry working groups in several currency areas, such as the Alternative Reference Rates Committee (ARRC) in the US, in selecting its replacement benchmark rate for those currencies, such as USD LIBOR. This approach aims to have an industry-agreed replacement benchmark rate available for use in all legacy contracts entered into by an EU-supervised entity. The proposal also clarifies that the European Commission's replacement benchmark rate should be irrespective of the UK's separate proposal to empower the Financial Conduct Authority (FCA) to direct the LIBOR administrator to change the calculation of the rate after the FCA declares the rate non-representative.[\[3\]](#)

While proposing these amendments to the Benchmark Regulation, the European Commission also encouraged market participants to agree to a permanent replacement rate for all new contracts whenever feasible to avoid relying on a regulatory solution.

Finally, the European Commission also proposed an adjustment to the Benchmark Regulation that will allow EU users to continue using currency benchmarks provided outside the EU, thereby allowing EU companies to cover the risk of foreign currency fluctuations in their exporting and foreign investment activities.

**endnotes**

[1] See European Commission's proposal to amend EU rules on financial benchmarks (Jul. 24, 2020), *available* at [https://ec.europa.eu/info/publications/200722-proposal-benchmarks\\_en](https://ec.europa.eu/info/publications/200722-proposal-benchmarks_en).

[2] Contracts that do not involve EU-supervised entities would be out of the scope of the amended regulation. For such non-supervised entities, individual EU member states would need to amend their laws and extend the scope of the statutory replacement rate to also cover non-supervised entities. The European Commission stated that it is considering recommending that national laws supplement the harmonized replacement rate that applies to supervised entities.

[3] See FCA statement on planned amendments to the Benchmarks Regulation (Jun. 23, 2020), *available* at <https://www.fca.org.uk/news/statements/fca-statement-planned-amendments-benchmarks-regulation>.