

ReedSmith

FAQs for EFET Legal Committee Meeting 23 February 2021 re IBOR Transition

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IBOR Transition – New Trades

As explained in our IBOR Transition workshops for EFET members in November 2020, various key reference rates are being permanently discontinued or declared unrepresentative from 31 December 2021. As a result, all new trades being entered into should cease to refer to such rates, and replace these with “risk-free rates” (RFRs) which provide robust fallbacks and comply with the requirements of the European Benchmarks Regulation 2016.

We have prepared updated EFET template documents which can be used by counterparties entering into new trades, which incorporate the wording EFET and its members have agreed. The EFET template documents that have been amended are only the ones which specified a particular rate, i.e. EONIA, EURIBOR or Sterling LIBOR. These are contained in the zipfile provided to members, along with comparisons against the previous versions of each document.

IBOR Transition – Legacy Trades

For existing trades between counterparties, which have a termination date falling after 31 December 2021, an English law and a German law EDRS Letter have been prepared to allow parties to agree to amend the terms of their agreements to reflect the changes agreed by EFET and its members, without needing to negotiate these terms bilaterally. These will be ratified by parties which sign up to them through the EDRS system, and final versions of the letters have been provided to members.

FAQs

What documents can be amended by the EDRS Letter?

All documents using the EFET templates listed in Schedule 2 of the EDRS Letters may be amended provided they use the interest rate stipulated in the template. However, counterparty-specific elections are not included and these will need to be negotiated bilaterally between counterparties. Counterparties may use the proposed wording as a base for these bilateral negotiations.

Why does the definition of €STR refer to a link to the ECB website, while the definition of EURIBOR refers to the Reuters Screen and the definition of SONIA refers to the Bank of England as administrator?

We have followed the approach to drafting taken by ISDA; ISDA's wording for EuroSTRi references the ECB Website and includes a hyperlink, ISDA's wording for EURIBOR references the Reuters Screen and ISDA's wording for SONIA refers to administration by the Bank of England.

Why is there a different definition of EURIBOR for the Power Purchase Agreement and the Gas/Power CSA?

Most EFET template documents which reference EURIBOR specify a one month tenor, however, the Power Purchase Agreement and the Gas/Power CSA do not specify any tenor. We do not think it appropriate to specify a tenor where this has been left to the parties to agree bilaterally previously, as this may have an impact on the economics, so we have provided this alternative definition. We think it advisable to have a tenor, whether this is agreed bilaterally, or specified in the EFET template.

FAQs (continued)

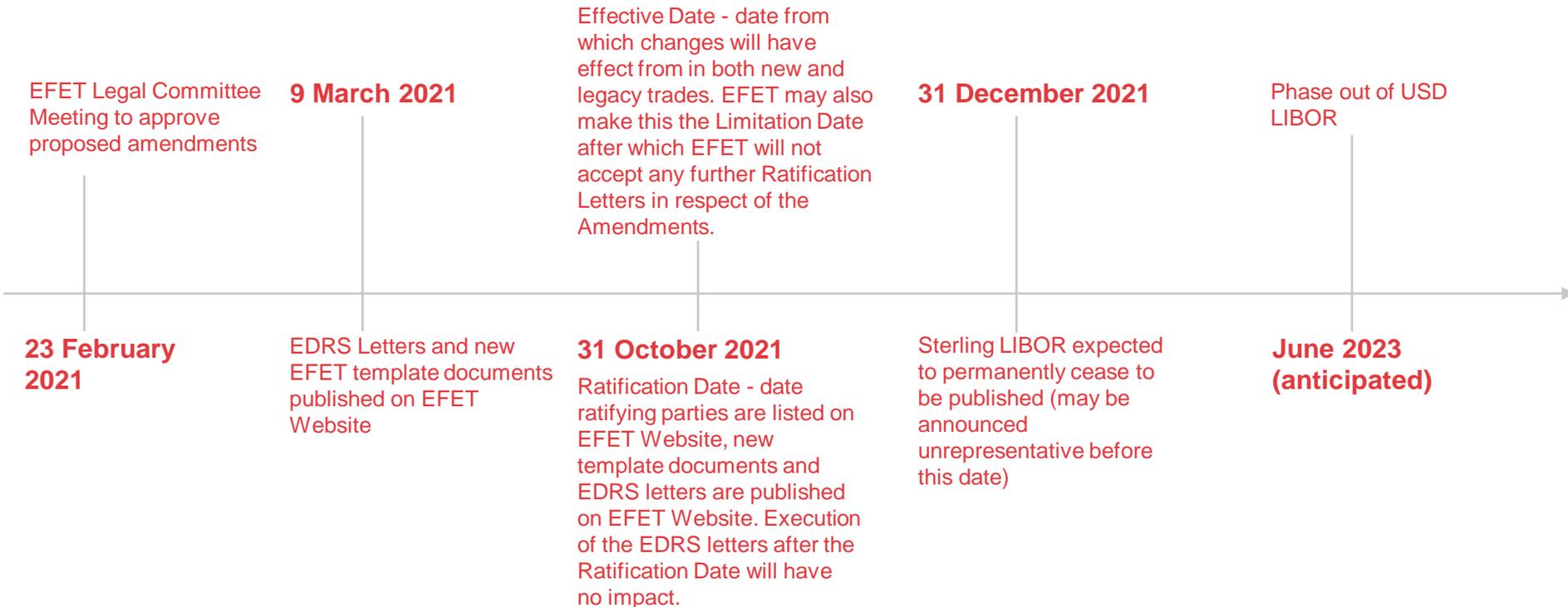
Why are the PRISMA Gas Capacity Contracts treated differently to other agreements referencing EURIBOR?

The PRISMA Gas Capacity Contracts already contain fallback provisions in Clause 9.3, whereas currently no other EFET template documents do. This clause already refers to compounding EURIBOR monthly, so we have specified this as the applicable tenor for the PRISMA Gas Capacity Contracts.

Why is there zero floor wording and why is this different for CSAs compared to other documents?

The inclusion of zero floor wording is to avoid any argument that negative interest rates are payable. Many EFET template documents use floating rates in respect of default interest provisions. In order to deter default, the zero floor is applied to the interest rate only, so that at least the margin is always payable. For CSAs, the zero floor wording is applied to the sum of the interest rate and the margin so as to minimise the economic impact of the zero floor.

EFET IBOR Transition Timeline



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