

## **Q&A to the Commission Implementing Regulation on the designation of a statutory replacement for CHF LIBOR**

### **Q: Why act now? Was it not possible to intervene earlier?**

A: The Commission has acted with great expediency in enacting the replacement rate for CHF LIBOR, with a view to affording stakeholders the greatest possible advance notice of the statutory replacement. The power to adopt a statutory replacement was granted to the Commission only early this year, just before the UK Financial Conduct Authority (UK FCA) confirmed the cessation of CHF LIBOR. The Commission then launched a first targeted consultation on replacing CHF LIBOR in March.

### **Q: Why is there a replacement rate for CHF LIBOR (and not for JPY or GBP LIBOR, which are also ceasing)?**

A: The Commission's powers to enact a statutory replacement for a non-EU benchmark that is ceasing are conditional on the economic impact the cessation of that benchmark would have in the Union. The Commission can only intervene where the cessation would significantly disrupt the functioning of financial markets in the Union or pose a systemic risk to the financial system in the Union. For CHF LIBOR, the Commission has indications that there are a number of legacy contracts in several Member States that cannot be renegotiated before year's end. Also, for JPY LIBOR and for GBP LIBOR, the UK Financial Conduct Authority has announced that it will compel the administrator of LIBOR to continue publishing the benchmark using an alternative, synthetic methodology for at least one year.

### **Q: Why was this particular replacement rate chosen?**

A: In accordance with the Benchmark Regulation, the Commission has to take certain factors into account in designating a particular replacement rate. Notably, the recommendations made by the National Working Group on Swiss Franc reference rates are of importance. This private sector working group recommended both the use of SARON as a base rate for the replacement and the use of an adjustment spread to limit value transfer. On the basis of this initial proposal, the Commission carried out two rounds of public consultation, which resulted in minor tweaks to the methodology chosen for the replacement rate. The end result is a rate which, for each of the maturities concerned, strikes a balance between being similar to the original rate and having an observation period which is close in time to the period to which the interest rate applies.

### **Q: What about foreign currency mortgages?**

A: The Commission is aware that a significant portion of the contracts in the EU that reference CHF LIBOR are retail mortgages denominated in Swiss Francs. We understand that many of these contracts predate the current rules on retail mortgages. This implementing decision is not

specific to those contracts and expresses no opinion about the appropriateness of concluding mortgage contracts denominated in the currency of a third country.

**Q: What does this replacement rate mean for mortgage holders?**

A: This replacement rate first and foremost means that mortgage contracts can continue to be performed, so it provides mortgage holders as well as the banks that granted those mortgages with legal certainty. To avoid significant value transfer, the replacement rate includes an adjustment spread that was set on 5 March, the date when it was announced that CHF LIBOR would be discontinued. Any slight value transfer parties may see on 1 January 2022 would be a result of the rates' respective movements since 5 March.