

EU Commission designates replacement rates for CHF LIBOR and EONIA

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On 22 October 2021, the European Commission adopted two implementing regulations^[1] on the designation of a statutory replacement rate for two interest rate benchmarks, the Swiss Franc London Interbank Offered Rate (**CHF LIBOR**) and the Euro Overnight Index Change (**EONIA**).

What are CHF LIBOR and EONIA?

The CHF LIBOR is one of the five LIBOR interest rate benchmarks administered by the ICE Benchmark Administration (**IBA**). The CHF LIBOR is the rate of interest at which large multinational banks access the wholesale, unsecured funding market to fund themselves in Swiss francs. The IBA calculates the rate based on data submissions communicated to it by a panel of banks.

The EONIA is a critical benchmark administered by the European Money Market Institute (**EMMI**). It represents the interest rates on unsecured interbank overnight lending transactions denominated in euros. It is used in the context of financial instruments such as overnight index swaps which is essential for cash settlements. EONIA is also highly relevant for a number of other purposes, such as applying valuation procedures as part of collateral and risk management.

Why replacements are needed?

CHF LIBOR and EONIA will cease to be published by the end of 2021 predominantly as a result of LIBOR's discontinuation at the end of 2021. In EU Member States, there is a large volume of outstanding contracts and financial instruments referring to CHF LIBOR and EONIA which, for the most part, do not contain fall back provisions that address the CHF LIBOR or EONIA no longer being published. Without action being taken, there would be a risk of contractual frustration in many Member States. Pursuant to Article 23b(8) of the Benchmarks Regulation,^[2] the Commission has the power to designate a statutory replacement in order to ensure financial stability.

What are the replacement rates?

As of 1 January 2022 (for CHF LIBOR) and 3 January 2022 (for EONIA), all references to these rates in contracts and financial instruments will automatically be replaced with references to new risk-free rates. For CHF LIBOR, the nominated replacement rate is the new Swiss Franc risk-free rate SARON. EONIA references will be replaced by references to the euro risk-free rate €STR. As there is a difference in value between previous and replacement rates, a fixed spread adjustment is added to the latter in order to minimise the economic impact of the replacement (0,085% for €STR ; between -0,0571% and 0,2048% for SARON, depending on the tenor).

What does this mean in practice?

Contract continuity will be ensured by the automatic replacement and will not require intervention from the parties. However, parties still have the liberty to renegotiate individual contracts bilaterally if they deem it necessary. In such cases, the statutory replacement will not apply.

[1] Commission Implementing Regulation (EU) 2021/1847 of 14 October 2021 on the designation of a statutory replacement for certain settings of CHF LIBOR; and the Commission Implementing Regulation (EU) 2021/1848 of 21 October 2021 on the designation of a replacement for the benchmark Euro overnight index average

[2] Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014

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Meet the Author



[Jad Nader](#)

Partner

[Luxembourg Legal Services](#)

E: jad.nader@ogier.com

T: [+352 2712 2047](tel:+35227122047)

Key Contacts



[Caleb Holder](#)

Counsel

[Luxembourg Legal Services](#)

E: caleb.holder@ogier.com

T: [+352 2712 2062](tel:+35227122062)

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