

Eurex Clearing AG

Mergenthalerallee 61
65760 Eschborn
T 312-544-1087

www.eurex.com/clearing

VIA ELECTRONIC SUBMISSION

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

January 24, 2022

Re: Swap Clearing Requirement Amendments to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates

Dear Mr. Kirkpatrick,

Eurex Clearing AG (“Eurex Clearing”) welcomes the opportunity to provide information and comment to the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) regarding the Commission’s Request for Information and Comment: Swap Clearing Requirement Amendments to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates published on November 23, 2021.¹ After almost a decade of reforming the IBORs, the transition from old benchmarks to new risk-free reference rates (“RFRs”) is well underway and could be considered one of the largest changes in EU capital markets since the introduction of the Euro.

On our end, after launching €STR overnight index swaps in November 2019, Eurex Clearing completed the EONIA-€STR discounting and price alignment interest switch for transactions in Euro in July 2020 in coordination with other Euro clearing CCPs. That coordination continued when Eurex Clearing and other CCPs implemented a conversion to €STR, as the applicable floating rate for transactions referencing the EONIA benchmark, starting on October 15, 2021

¹ 17 CFR Part 50 Swap Clearing Requirement to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates, Request for Information and Comment, 88 Fed. Reg. 66476 (Nov. 23, 2021), <https://www.cftc.gov/sites/default/files/2021/11/2021-25450a.pdf>.

and executed over the following weekend. In addition, remaining clearing legacy Interest Rate Derivative (“IRD”) trades were converted to RFR OIS trades for (a) CHF and JPY LIBOR starting on December 3, 2021 and executed over the following weekend and (b) GBP LIBOR starting on December 17, 2021 and executed over the following weekend. The conversion of remaining clearing legacy IRD trades from USD LIBOR to SOFR as the applicable RFR is scheduled to take place before June 30, 2023 as the applicable cessation date for USD LIBOR.

Against this background, Eurex Clearing expresses its general support for the efforts made by the Commission and other authorities in relation to the preparations of the IBOR reform. Eurex Clearing therefore supports the Commission’s request for public comment on how it could amend its swap clearing requirement to address the transition to the RFRs.

Eurex Clearing notes that it previously responded to the European Securities and Markets Authority’s (“ESMA”) request for comment (“ESMA Response”),² and strongly encourages continued cooperation among the Commission, ESMA, and other regulators to facilitate international cooperation and global convergence in the transition to the RFRs to the extent possible. Eurex Clearing specifically notes in its information and comments below the areas where Eurex Clearing believes coordination is especially important.

Eurex Clearing comments prior to “III. Request for Information” section:

A. Swaps Subject to the Clearing Requirement

1. The Commission requests that DCOs provide, for swaps currently subject to the Clearing Requirement referencing each of GBP LIBOR, JPY LIBOR, CHF LIBOR, USD LIBOR, and SGD SOR-VWAP, in each of the fixed-to-floating swap, basis swap, FRA, and OIS classes, data for the month ending November 30, 2021 concerning: (A) the amount of notional cleared, including as a percentage of total notional cleared of all swaps; (B) total notional outstanding, including as a percentage of total notional outstanding; and (C) total number of clearing members clearing such swaps, including as a percentage of the total population of clearing members.

	A) Amount Notional Cleared	A) Percentage of total	B) Amount Notional Outstanding	B) Percentage Outstanding	C) Clearing members involved	C) Percentage involved
GBP LIBOR	111,171,885,785.32	0.10%	27,930,315,027.84	0.13%	35	38.89%
JPY LIBOR	-	0.00%	0.00	0.00%	0	0.00%
CHF LIBOR	421,704,241,596.88	0.39%	180,369,931,087.07	0.85%	34	37.78%
USD LIBOR	64,938,166,410.46	0.06%	27,772,914,851.19	0.13%	55	61.11%
SGD SOR-VWAP	-	0.00%	0.00	0.00%	0	0.00%
Grand Total	107,487,576,103,584.00	100.00%	21,255,169,762,968.40	100.00%	90.00	

² Eurex Group’s Response to the ESMA Public Consultation on the Clearing and Derivative Trading Obligations in View of the Benchmark Transition is publicly available at: <https://www.esma.europa.eu/press-news/consultations/public-consultation-clearing-and-derivative-trading-obligations-in-view>.

Eurex Clearing notes that the above data references the time period prior to the RFR conversions, which were carried out in December 2021 by Eurex Clearing for GBP LIBOR, JPY LIBOR, and CHF LIBOR.

2. The Commission requests that DCOs provide an assessment of the DCO's ability to conduct an auction of a defaulting clearing member's positions in swaps referencing LIBOR after December 31, 2021 (not including certain USD LIBOR tenors and SGD SOR-VWAP that will continue until June 30, 2023), if the DCO has not conducted, or is not planning on conducting, a conversion event.

As outlined in the introduction, Eurex Clearing converted its cleared trades referencing GBP LIBOR, JPY LIBOR, and CHF LIBOR to the applicable RFRs in December 2021. As a result of that conversion, Eurex Clearing does not clear any further trades where obtaining new GBP LIBOR, JPY LIBOR, or CHF LIBOR fixings or a reliance on the relevant fallback provisions would be necessary. Therefore, the IBOR transition does not affect Eurex Clearing's ability to execute a default management auction. Clearing members' obligations towards the CCP remain unaffected, which also includes the obligation to participate in default management auctions.

3. The Commission requests that DCOs provide an assessment of the DCO's ability to transfer or port to other clearing members a defaulting clearing member's positions in swaps referencing LIBOR after December 31, 2021 (not including certain USD LIBOR tenors and SGD SOR-VWAP that will continue until June 30, 2023).

With respect to Eurex Clearing's clearing members that are Futures Commission Merchants ("FCMs") and which clear under Eurex Clearing's U.S. regulatory framework, the FCM Regulations of Eurex Clearing ("FCM Regulations") foresee a clear process for a potential porting of client-related transactions to a replacement clearing member following the termination of a clearing member. Specifically, if the termination is based on an Insolvency Termination Event (as defined in the FCM Regulations), Eurex Clearing will seek to coordinate with the CFTC and the bankruptcy trustee with respect to the porting. This porting procedure applies with respect to all clearing members clearing under the FCM Regulations regardless of the cleared products and therefore also applies with respect to a defaulting clearing member's positions in swaps referencing LIBOR.

The Clearing Conditions of Eurex Clearing ("Clearing Conditions"), as Eurex Clearing's clearing framework under EU and German law, also foresee a clear process for a porting of client-related transactions to a replacement clearing member following the termination of a clearing member in accordance with the European Regulation No. 648/2012 on OTC derivatives, central counterparties and trade repositories ("EMIR").

Eurex Clearing further notes that, as a result of the IBOR conversion conducted by Eurex Clearing in December 2021, Eurex Clearing does not clear any further

trades where obtaining new GBP LIBOR, JPY LIBOR, or CHF LIBOR fixings or a reliance on the relevant fallback provisions would be necessary. Therefore, the IBOR transition does not affect Eurex Clearing's ability to transfer or port a defaulting clearing member's positions to another clearing member.

4. The Commission would like to know whether any clearing member firms of DCOs have experienced challenges with respect to the transition from any IBOR to an alternative reference rate, and any related DCO conversion event, including whether and how such challenges were resolved, and whether clearing member firms believe there are any steps the Commission can take to help resolve ongoing challenges.

Not applicable.

5. The Commission requests that registered swap dealers and other market participants provide data related to market participants' outstanding net LIBOR risk as of November 30, 2021.

Not applicable.

B. Swaps Not Currently Subject to the Clearing Requirement

6. The Commission requests that DCOs file submissions with the Commission under Commission regulation 39.5 for any swaps that have been or may be identified as swaps that reference an alternative reference rate that are not currently subject to the Clearing Requirement and for which a DCO has not previously filed a submission under Commission regulation 39.5(b).

Eurex Clearing has filed submissions pursuant to Commission Regulation 39.5 for all swaps cleared referencing the RFRs that are cleared by Eurex Clearing.

7. The Commission requests that DCOs provide for swaps that reference one of the alternative reference rates including, GBP SONIA, JPY TONA, CHF SARON, €STR, and USD SOFR in each of the fixed-to-floating swap, basis swap, FRA, and OIS classes, data from the quarter ending September 30, 2021 concerning: (A) the amount of notional cleared, including as a percentage of total notional cleared of all swaps; (B) total notional outstanding, including as a percentage of total notional outstanding; and (C) total number of clearing members clearing such swaps, including as a percentage of the total population of clearing members.

	A) Amount Notional Cleared	A) Percentage of total	B) Amount Notional Outstanding	B) Percentage Outstanding	C) Clearing members involved	C) Percentage involved
GBP SONIA	38,516,512,600.20	0.04%	29,143,282,203.00	0.14%	22	24.72%
JPY TONA	1,696,065.12	0.00%	-	0.00%	2	2.25%
CHF SARON	12,407,205,292.82	0.01%	12,184,839,335.24	0.06%	16	17.98%
ESTR	1,453,907,947,198.00	1.41%	711,202,972,027.00	3.44%	58	65.17%
USD SOFR	6,454,610,701.68	0.01%	3,513,299,939.54	0.02%	12	13.48%
Overall	102,884,403,574,889.00	100.00%	20,698,234,330,369.80	100.00%	89	

Eurex Clearing notes that the above data references the time period prior to the RFR conversions, which were carried out in December 2021 by Eurex Clearing for GBP LIBOR, JPY LIBOR, and CHF LIBOR.

Eurex Clearing comments to “IV. Request for Comment” section:

B. Specific Request for Comment

i. Current swap clearing requirement-related questions:

1. Are market participants concerned about access to clearing for certain swaps that are subject to the Clearing Requirement? If so, are there any Commission actions or regulatory amendments that could facilitate the IBOR transition for market participants?

Eurex Clearing believes that access to clearing for swaps subject to the Clearing Requirement is fair and open.

2. Please discuss recommendations for how the Commission should modify its Clearing Requirement under Commission regulation 50.4 and any related advantages or disadvantages (including anticipated costs) that might be expected from a specific approach.

Eurex Clearing supports ISDA’s statement in response to this Question.

3. More specifically, should the Commission modify the termination date range, or any other specifications, with respect to SONIA OIS, AONIA OIS, CORRA OIS or any other OIS that are subject to the Clearing Requirement and for which the index has been nominated as an alternative reference rate? If such an amendment is recommended, please discuss a potential timeline for considering and adopting a modification and the reasons for adopting such timeline.

Eurex Clearing references its response to Question 4 in the ESMA Response, in which Eurex Clearing supports ESMA’s proposed extension of the clearing obligation for SONIA OIS to maturities from 3 to 50 years, as the expansion of maturity is required to replace the GBP LIBOR IRS currently subject to the clearing obligation. In addition, Eurex Clearing supports an inclusion of the TONA OIS with an extension to a maturity of 30 years, as this will be replacing the JPY LIBOR IRS currently in scope of the clearing obligation. Finally, Eurex Clearing also supports both the removal of EONIA and the addition of €STR to the OIS class for the Euro currency under the Clearing Requirement of Regulation 50.4, which matches the actions taken by both the Bank of England and ESMA regarding their respective clearing requirements.

4. Should the Commission revise the clearing requirement related to the SGD SORVWAP rate as part of the initial LIBOR transition or should market

participants be given additional time to consider changes to SGD SOR-VWAP Clearing Requirement because it is based on USD LIBOR (and may continue until 2023)?

This question is not applicable for Eurex Clearing because Eurex Clearing does not clear this rate.

ii. Swap clearing requirements for alternative reference rates

5. Are market participants concerned about access to clearing for certain swaps that reference alternative reference rates and are not currently subject to the Clearing Requirement? If so, please explain current or anticipated barriers to clearing swaps in alternative reference rates.

Eurex Clearing believes that access to clearing for swaps subject to the Clearing Requirement is fair and open and will remain so with the transition to the RFRs.

6. Are there any steps related to the SOFR transition that have not been completed that would enable a significant number of market participants to submit swaps referencing SOFR to clearing? Are there specific metrics or products associated with the new SOFR rate that need to be developed before swaps referencing SOFR can be used by a broad range of market participants?

Eurex Clearing references its response to Question 5 in the ESMA Response regarding the SOFR transition. Specifically, Eurex Clearing believes the Commission and ESMA should coordinate their decision on a prospective removal of the USD LIBOR from the clearing obligation and implementation of a clearing obligation on SOFR OIS. As noted in the ESMA Response, Eurex Clearing cautioned ESMA against requiring clearing for SOFR OIS in the EU without a respective decision by the Commission in the U.S. Eurex Clearing additionally supports the Commission's statement on the "SOFR First initiative" for increasing liquidity in derivatives referencing SOFR and, in the ESMA Request, welcomed ESMA's approach to closely monitor the further build-up of liquidity and approach taken by the Commission before taking a decision on the EU clearing obligation to include SOFR OIS. Finally, Eurex Clearing recommends that a clear and coordinated approach be taken by CCPs and the industry in all jurisdictions regarding the end of USD LIBOR in June 2023, as was the case for the shifts from EONIA and GBP/CHF/JPY LIBOR in 2021.

7. Would requiring the clearing of swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement affect the ability of a DCO to comply with the CEA's core principles for DCOs?

Requiring the clearing of swaps referencing SOFR or other RFRs that are not currently subject to the Clearing Requirement will not affect Eurex Clearing's ability to comply with the CEA's core principles for DCOs. Eurex Clearing has a well-developed rule framework, compliance process and procedures, and

support infrastructure to support clearing of swaps referencing the RFRs and already offers clearing of these swaps. Eurex Clearing has leveraged and will continue to leverage this operational capacity for the clearing of swaps referencing the RFRs and has the appropriate risk management, operations, technology, and compliance capabilities in place to continue to provide for compliance with all CEA core principles for DCOs.

8. Are there specific data the Commission should consider in determining whether significant notional amount and liquidity exists in swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement?

Eurex Clearing is not aware of specific data in this regard.

9. Are there specific thresholds that the Commission should apply with respect to notional amount and liquidity in determining whether swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement should be subject to the clearing requirement?

Eurex Clearing is not aware of specific thresholds in this regard.

10. Have market participants observed sufficient outstanding notional exposures and trading liquidity in swaps referencing SOFR during both stressed and non-stressed market conditions to support a clearing requirement?

Eurex Clearing acknowledges that liquidity in SOFR-based swaps was relatively low until mid-2021. However, following the announcement on March 5, 2021 regarding the cessation of USD LIBOR to take place by June 30, 2023, trading volumes and liquidity in SOFR-based swaps have considerably increased, and DV01 traded as RFR-linked IRD products (i.e., SOFR-based interest derivatives) has reached more than 25% of the USD market according to the latest ISDA/Clarus RFR Adoption Indicator as of December 2021 (<https://www.isda.org/2022/01/12/isda-clarus-rfr-adoption-indicator-december-2021/>). As with the other swaps in EUR, JPY, GBP, and CHF, Eurex Clearing expects a further significant increase in volumes and liquidity in SOFR-based swaps in the next months.

11. Is there adequate pricing data for DCO risk and default management of swaps referencing SOFR? Why or why not?

Eurex Clearing believes there is adequate pricing data for DCO risk and default management of swaps referencing SOFR. Eurex Clearing's rules for determination of pricing data for swaps referencing the RFRs are provided in Chapter II, Part 2, Number, 2.1.6 (1) (Daily Evaluation Price and Discounting of Future Cashflows) of the FCM Regulations and Chapter VIII, Part 2, Number 2.1.5 (Daily Evaluation Price) of the Clearing Conditions:

Eurex Clearing AG determines the daily evaluation price on the basis of (i) the rates determined in accordance with Number 2.2.5 and (ii) the raw market quotes underlying the discount and forecast curve provided by a recognized third party provider (the respective quotes and third party provider to be selected at the reasonable discretion of Eurex Clearing A), in each case as of the day of the determination of the daily evaluation price (each such day a "Reset Date" for the purposes of Number 2.2.5 (1)). Where no information on the relevant rates as referred to in (i) is available, Eurex Clearing AG will determine the daily evaluation price in accordance with Number 1.8. The relevant discount and forecast curves are laid out in the EurexOTC Clear Risk Methodology Description Interest Rate Swaps of Eurex Clearing AG.

12. What are the challenges that DCOs may face or have faced in accepting new SOFR swaps or swaps referencing other alternative reference rates for clearing that are not currently subject to the Clearing Requirement from a governance, rule framework, operational, resourcing, or credit support infrastructure perspective?

Eurex Clearing has not faced and does not foresee facing challenges in accepting new SOFR swaps or swaps referencing other RFRs for clearing that are not currently subject to the Clearing Requirement from a governance, rule framework, operational, resourcing, or credit support infrastructure perspective. Eurex Clearing already has a well-developed rule framework and support infrastructure for clearing such contracts. Eurex Clearing has leveraged and will continue to leverage this existing operational capacity. Eurex Clearing ensures that it has the appropriate risk management, operations, and technology capabilities in place to ensure that it is able to liquidate positions in an orderly manner in the event of a default. Such contracts are subject to margin and clearing fund requirements set forth in the FCM Regulations and the Clearing Conditions.

13. Would requiring the clearing of swaps referencing SOFR mitigate systemic risk? Please explain why or why not and provide supporting data.

Eurex Clearing believes the benefits of central clearing of contracts are significant, including reduction of counterparty risk, margin and collateral efficiencies, client asset segregation, and legal certainty. USD LIBOR swaps fall under the CFTC's Clearing Requirement (Regulation 50.4), which has provided the systemic risk mitigation benefits that clearing provides. As SOFR is the replacement rate for USD LIBOR, Eurex Clearing believes that the clearing of swaps referencing SOFR would mitigate the same risk that has been mitigated in the past with the mandated clearing of USD LIBOR swaps.

14. Would requiring the clearing of swaps referencing SOFR increase risk to DCOs? If so, are DCOs capable of managing that risk? Please explain why or why not and provide supporting data.

Eurex Clearing does not believe that requiring the clearing of swaps referencing SOFR would increase risk to DCOs such as Eurex Clearing, as the resulting clearing volumes are generally not additional volumes but rather the replacement of volumes that would have been cleared as USD LIBOR-based trades. As discussed above in response to Number 12, Eurex Clearing has the governance, rule framework, operational, resourcing, and credit support infrastructure to clear swaps referencing SOFR without any increase in risk. With an overall collateral pool of EUR 55 billion, stress-tested lines of defense and over 200 clearing members from 19 countries, Eurex Clearing has the necessary resources to clear such swaps from a market size and resources perspective.

15. Would adopting a clearing requirement for swaps referencing SOFR or other alternative reference rates that are not currently subject to the Clearing Requirement materially and beneficially affect trading activity in those swaps?

Eurex Clearing does not believe that adopting a clearing requirement for swaps referencing SOFR would be any hindrance to trading activity in those swaps. Any such clearing requirements for the RFRs, if adopted, were already in effect for the IBOR-based rates being replaced. Eurex Clearing believes such requirements should be carried over to the RFRs and that the same benefits will be achieved and that there would be no hindrances to trading activity.

16. How and when should the Commission evaluate whether to require clearing for interest rate swaps denominated in USD that reference alternative reference rates other than SOFR, such as credit-sensitive benchmark rates (e.g., Ameribor and BSBY)? Provided that one or more DCOs have made such swaps available for clearing, are there additional factors or considerations beyond those specified in Section 2(h)(2)(D)(ii) of the CEA that the Commission should consider in determining whether to adopt a clearing requirement for such swaps?

This question is not applicable for Eurex Clearing because Eurex Clearing does not clear these rates.

17. Would adopting a clearing requirement for a new product that references an alternative reference rate, or expanding the scope of the Clearing Requirement to cover additional maturities, create conditions that increase or facilitate an exercise of market power over clearing services by any DCO that would: (i) adversely affect competition for clearing services and/or access to product markets for swaps referencing alternative reference rates (including conditions that would adversely affect competition for these product markets and/or increase the cost of such swaps); or (ii) increase the cost of clearing services? Please explain why or why not and provide supporting data.

Eurex Clearing believes there is healthy competition currently in the market for the clearing of swaps referencing the RFRs and, previously, the LIBORs. Eurex Clearing does not believe that adopting a clearing requirement for a new product that references an RFR or expanding the scope of the Clearing Requirement to cover additionally maturities would cause the effects in (i) or (ii) above.

18. What new information, if any, should the Commission consider as it prepares to review whether interest rate swaps linked to the alternative reference rates should be subject to a clearing requirement? Are there specific regulatory requirements that the Commission should consider when reviewing overall market conditions, such as uncleared margin requirements implemented by prudential regulators and/or the uncleared margin requirements for swap dealers and major swap participants under part 23 of the Commission's regulations?

Eurex Clearing respectfully reiterates its strong encouragement for the continued cooperation among the Commission, ESMA, and other regulators to facilitate international cooperation and global convergence in the transition to the RFRs to the extent possible.

iii. New swap product documentation

19. With respect to all new swap products, including those referencing alternative reference rates, is there additional documentation that the Commission should require DCOs to submit with swap submissions beyond the documentation that Commission regulation 39.5 currently requires?

Eurex Clearing does not believe that the Commission should require DCOs to submit additional documentation for swap submissions beyond the documentation that Commission Regulation 39.5 currently requires.

iv. Swap clearing requirement specifications

20. The Commission recognizes that at this time a majority of the swaps subject to the Clearing Requirement fall within the fixed-to-floating swap class. That may change as new alternative reference rates are adopted and will be characterized as OIS or other types of swaps. Should the Commission designate any additional classes of swaps or specifications for purposes of classifying swaps under Commission regulation 50.4? Do DCOs or market participants have suggestions about how to reorganize or structure the classes of swaps subject to the clearing requirement under Commission regulation 50.4? Should the Commission include a new class covering variable notional swaps as a table under Commission regulation 50.4(a)?

Eurex Clearing is not aware of additional classes of swaps or specifications for purposes of classifying swaps under Commission Regulation 50.4 and reiterates its support for continued cooperation among the Commission, ESMA, and other

regulators in determining classes of swaps subject to mandatory clearing or specifications for purposes of classifying swaps as subject to mandatory clearing.

v. Swap clearing requirement specifications

21. The Commission requests comment from DCOs and market participants on the nature and extent of any operational, compliance, or other costs they may incur as a result of potential changes to the Clearing Requirement in response to the market-wide shift to alternative reference rates. Please provide supporting data.

Eurex Clearing has already planned for the operational, compliance, and other costs associated with potential changes to the Clearing Requirement in response to the market-wide shift to the RFRs and does not foresee any additional, material costs that would be incurred.

In conclusion, Eurex Clearing reiterates its appreciation for the opportunity to provide information and comments on the Commission's Request for Information and Comment and looks forward to working with the Commission on other proposals and initiatives in the future.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Eric Seinsheimer".

Eric Seinsheimer
US CCO, Eurex Clearing