

CHANGE OR DISCONTINUATION OF A REFERENCE RATE

Since 1.1.2018, the EU Benchmark Regulation (Regulation (EU) 2016/1011, <https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:32016R1011>) is in force. The objective of the Benchmark Regulation is to ensure that benchmarks provided and used in the EU are robust, reliable and representative in order to ensure the proper functioning of the internal market and to ensure a high level of consumer and investor protection.

Among other things, the Benchmark Regulation requires banks to create robust written plans describing how the bank will proceed if a benchmark significantly changes or is no longer provided. Banks currently already have such robust contingency plans in place.

The Benchmark Regulation was last amended by Regulation (EU) 2021/168, effective from 13.2.2021 (see the consolidated version <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02016R1011-20210213>) The European Commission was given the right to replace critical benchmarks in special cases, in particular in case of discontinuation of their publication, by means of Union law.

As your lending bank, it is important to us that in the event of a reference rate ceasing to exist, a replacement reference rate is applied which is economically closest to the ceased reference value. Which future substitute reference rate this will be cannot be contractually regulated in a meaningful way at present, because the economic and other consequences of a replacement event cannot be predicted with sufficient precision in advance.

A Replacement Event occurs,

- If the administrator of the reference rate or the supervisory authority responsible for the administrator of the reference rate or a person acting on their behalf has publicly announced that the provision of the reference rate will be permanently or indefinitely discontinued;
- if the reference rate is permanently discontinued without prior notice by the administrator;
- if the supervisory authority responsible for the administrator of the reference rate or an institution vested with powers relating to the insolvency or liquidation of the administrator has publicly announced that, in their view, the reference rate is no longer representative (of the underlying market or economic reality) and the representativeness of the reference rate will not be restored either;
- if the use of the reference rate has become unlawful for the lending bank or the customer for any reason or the lending bank or the customer is otherwise prohibited from using the reference rate;
- if the approval of the administrator of the reference rate is withdrawn or suspended.

If a replacement event occurs, the following procedure is foreseen:

- i. If a replacement reference rate is specified at the European level on the basis of the Benchmark Regulation or otherwise at the national level (as is to be expected for frequently used reference rates and has already been done in the past), the replacement reference rate will be applied as of the date specified in the relevant legal act.
- ii. If no replacement reference rate is set by an Austrian or EU legislator, the replacement reference rate to be used as a replacement will be determined by the Administrator publishing the reference rate.
- iii. If the Administrator does not determine a replacement reference rate, then the replacement reference rate determined by the Austrian Financial Market Authority or the European Central Bank or the European Securities and Markets Authority - provided that one of these supervisory authorities is entitled to do so - shall be used.

- iv. If the supervisory authorities mentioned in section 3 do not determine a replacement reference rate, the replacement reference rate that is most suitable for adjusting the interest rates in accordance with the stipulations made in the loan agreement, considering all circumstances and based on our legal view, which is subject to review by the courts, shall be used as a replacement.
- v. In order to maintain the continuity of contracts and to avoid possible distortions in the contractual relationship, an "adjustment spread" (i.e., a premium or discount) will have to be applied to the replacement reference rate in the above measures, if necessary. The adjustment spread is not a commercial margin, but merely serves to maintain the continuity of the agreed interest terms of your loan in the event of a necessary switch to the replacement reference rate, i.e., to adjust the replacement reference rate to the originally agreed reference rate as close as possible.

Unless otherwise stipulated by law, the relevant replacement reference rate shall be applied as of the date on which the affected (old) reference rate actually ceases to be published, undergoes a significant change or is deemed to no longer be representative.

All affected customers shall be informed of the circumstance of the discontinuation of publication, the significant change or the affected reference rate becoming non-representative and of the resulting successor reference rate.

In the event of short-term failure of the replacement reference rate, the account shall be closed with the last available rate, unless contractually otherwise agreed.

EURIBOR:

In many contracts, EURIBOR interest rate is contractually agreed as a reference rate. A survey is currently being conducted at European level to determine which reference rate could be a suitable replacement for EURIBOR. A working group has also been set up for this purpose, the Working Group on Euro Risk-Free Rates. The euro short-term rate (€STR) is currently proposed as a suitable replacement reference rate for EURIBOR, although certain relevant calculation methods and other relevant information are currently still being worked out by the working group.

The FMA considers the recommendations of the Working Group on Euro Risk-Free Rates (for general information, see [Working group on euro risk-free rates \(europa.eu\)](https://www.europa.eu)) to be robust contingency plans. These have also been taken into account in our contingency plan.

In the event of a replacement event, according to our contingency plan, a group of experts will develop and monitor the coordination of next steps as well as internal and external communication, the determination of a success

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