








Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation 2020/0154(COD)		Awaiting Parliament's position in 1st reading	
Exemption of certain third country foreign exchange benchmarks and the designation of replacement benchmarks for certain benchmarks in cessation Amending Regulation 2016/1011 2013/0314(COD)			
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 2.80 Cooperation between administrations 4.60.06 Consumers' economic and legal interests			
Key players			
European Parliament	Committee responsible ECON Economic and Monetary Affairs	Rapporteur  NAGTEGAAL Caroline	Appointed 07/09/2020
		Shadow rapporteur  NIEDERMAYER Luděk  FERNÁNDEZ Jonás  MEUTHEN Jörg  NIINISTÖ Ville  JAKI Patryk  GUSMÃO José	
	Committee for opinion ITRE Industry, Research and Energy	Rapporteur for opinion The committee decided not to give an opinion.	Appointed
Council of the European Union	Council configuration Economic and Financial Affairs ECOFIN	Meeting 1365	Date 08/12/2020
European Commission	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner MCGUINNESS Mairead	
European Economic and Social Committee			
Key events			
24/07/2020	Legislative proposal published	COM(2020)0337	Summary

14/09/2020	Committee referral announced in Parliament, 1st reading/single reading		
19/11/2020	Vote in committee, 1st reading/single reading		
19/11/2020	Committee report tabled for plenary, 1st reading/single reading	A9-0227/2020	Summary
19/11/2020	Committee decision to open interinstitutional negotiations with report adopted in committee		
23/11/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
25/11/2020	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
08/12/2020	Act adopted by Council after consultation of Parliament		
10/12/2020	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE662.133 GEDA/A/(2020)007414	

Forecasts

18/01/2021	Indicative plenary sitting date, 1st reading/single reading
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Technical information

Procedure reference	2020/0154(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2016/1011 2013/0314(COD)
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	ECON/9/03679

Documentation gateway

Legislative proposal	COM(2020)0337	24/07/2020	EC	Summary
Document attached to the procedure	SWD(2020)0142	27/07/2020	EC	
Document attached to the procedure	SWD(2020)0143	27/07/2020	EC	
Committee draft report	PE658.859	06/10/2020	EP	
Amendments tabled in committee	PE660.111	29/10/2020	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0227/2020	19/11/2020	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2020)007414	09/12/2020	CSL	

2020/0154(COD) - 24/07/2020 Legislative proposal

PURPOSE: to amend EU rules on financial benchmarks to address the problems arising from the likely cessation of certain widely used LIBOR rates in the EU.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: this proposal to amend [Regulation \(EU\) 2016/1011](#) on EU Financial Benchmarks is based on the fact that one of the most important indices for the financial world, the London Interbank Offered Rate (LIBOR), is to be phased out by the end of 2021.

Financial benchmarks are indices by reference to which the amount payable under a financial instrument or a financial contract or the value of a financial instrument is determined. By setting out governance and data quality standards for benchmarks that are referenced in financial contracts, the Benchmark Regulation aims to strengthen the trust of capital market participants in indices used as benchmarks in the Union.

In light of the anticipated cessation of LIBOR after the end of 2021, supervised entities (such as banks, investment firms or asset managers) in the European Union shall be faced with legal uncertainty for hundreds of thousands of financial contracts. In order to avoid adverse consequences for the lending capacity of the European banking sector, early clarification as to the availability of a statutory replacement rate for use by supervised entities in all LIBOR referencing contracts that mature beyond the end of 2021 is necessary.

The fact that the Benchmarks Regulation does not provide for mechanisms to organise the orderly discontinuation of a systemically important benchmark in the Union could lead to heterogeneity in the solutions adopted by different Member States, which would lead to disruptions in the internal market.

CONTENT: this proposal amending the Financial Benchmarks Regulation introduces various tools to ensure that the phasing out of a widely used interbank rate does not unduly affect the ability of the banking sector to provide funding to EU companies and therefore jeopardise a key objective of the Capital Markets Union. By providing the necessary tools for a legally sound transition away from IBOR rates, this initiative would benefit retail customers who have taken out loans with IBOR rates as a benchmark.

Orderly termination of a financial benchmark

The proposed amendments to the provisions of the Benchmarks Regulation governing the winding down of a benchmark with systemic relevance in the Union are based on three main pillars:

1. The European Commission may designate a replacement rate if and when a benchmark whose cessation would result in significant disruption in the functioning of financial markets in the Union ceases to be published. In designating the statutory replacement rate, the European Commission shall take into account the recommendations of the risk free rate working groups operating under the auspices of the central banks responsible for the currency in which the rates of the benchmark in cessation are denominated.
2. The statutory replacement rate shall replace, by law, all references to the 'discontinuing benchmark' in all contracts concluded by an EU supervised entity. In order to benefit from the statutory replacement rate, contracts using the Cessation Benchmark should be ongoing at the time the designation enters into force; no contract concluded after the entry into force of the implementing act designating the statutory replacement rate would be allowed to use the statutory replacement rate as a reference.
3. For contracts not involving an EU supervised entity, Member State are encouraged to adopt national statutory replacement rates. At the appropriate time, the European Commission may issue a recommendation that the national statutory replacement rates will be identical to the statutory replacement rate that is designated for contracts involving EU supervised entities.

Exemption of specific foreign exchange benchmarks

The proposed amendments aim at exempting specified third country spot foreign exchange benchmarks from the scope of the Regulation where they fulfil certain criteria.

In order for the spot foreign exchange benchmark to qualify for exemption, it has to: (1) measure the spot exchange rate of a third-country currency that is not freely convertible and (2) be used by EU supervised entities, on a frequent, systematic and regular basis as settlement rate to calculate the pay-out under a currency forward or swap contract.

Furthermore, to enable the Commission to have all the necessary elements to designate exempted benchmarks, ESMA and the ECB are required to provide it with relevant information and views on specific exemption criteria.

2020/0154(COD) - 19/11/2020 Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Caroline NAGTEGAAL (Renew, NL) on the proposal for a regulation of the European Parliament and of the Council

amending Regulation (EU) 2016/1011 as regards the exemption of certain third country foreign exchange benchmarks and the designation of replacement benchmarks for certain benchmarks in cessation.

As a reminder, the proposed amendment to the Benchmarks Regulation aims to regulate the replacement rate of benchmarking cessation, in this case the London Interbank Offered Rate (LIBOR), and to avoid a legal vacuum.

The committee recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Mandatory replacement of a benchmark

The Commission may, by means of implementing acts, designate one or more replacement benchmarks for a benchmark that would cease to be published if the cessation of the publication of that benchmark would have a significant negative impact on market integrity, financial stability and the real economy in one or more Member States, and if certain conditions are fulfilled. A fallback provision would not be deemed suitable where the conditions set out in the amended text are met.

Before establishing a new replacement benchmark, the Commission should carry out a public consultation and consult the European Securities and Markets Authority (ESMA) and the competent national authority of the index administrator of the benchmark.

These provisions would apply to:

- any financial contract or instrument, within the meaning of Directive 2014/65/EU on Markets in Financial Instruments Directive, governed by the law of one of the Member States, which refers to a benchmark index;
- any contract subject to the law of a third country, but where the parties are all established in the EU and where the law of that third country does not provide for the orderly wind down of a benchmark.

List of exchange rate benchmarks

By 31 December 2022 at the latest, the Commission should conduct public consultations to identify exchange rate benchmarks that meet the criteria set out in the Regulation. By 31 December 2023 at the latest, the Commission should adopt delegated acts to create a list of spot foreign exchange benchmarks for hedging against third country currency volatility and should update that list on a regular basis.

Replacement of interest rate benchmarks and incorporation of contractual fallback provisions in historical transactions

The amended text amends Regulation (EU) n° 648/2012 on OTC derivatives, central counterparties and trade repositories to clarify that legacy trades will not be subject to those clearing and margin requirements when those trades are replaced, amended or novated for the sole purpose of replacing the interest rate benchmark they refer to in order to implement or prepare for that reform or otherwise in order to enhance the robustness of their contracts.