

GUIDELINE (EU) 2021/565 OF THE EUROPEAN CENTRAL BANK
of 17 March 2021
amending Guideline (EU) 2019/1265 on the euro short-term rate (€STR) (ECB/2021/10)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(2) and (5) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1 and 14.3 thereof,

Whereas:

- (1) Regulation (EU) 2016/1011 of the European Parliament and of the Council ⁽¹⁾ necessitates the adoption of robust fallback provisions in a large number of financial contracts and instruments. In the absence of such fallback provisions, the possible discontinuation in the future of a critical benchmark, such as Euribor, may have serious repercussions for the functioning of markets and, as a result, for the implementation of monetary policy. These repercussions could include the inability of market participants to value balance sheet positions, the frustration of a significant number of contracts, and disruption in certain markets – including lending markets – which are important for the Eurosystem's monetary policy. Overnight rates compounded in arrears are one viable fallback option that is recommended by the Financial Stability Board and market participants support the introduction of such rates. The publication by the European Central Bank (ECB) of compounded rates based on historical euro short-term rate (€STR) values would thus contribute to mitigating systemic risk in scenarios of benchmark discontinuation, whilst promoting a wider use of the €STR and fostering consistency across major currency areas in the fall back options available to market participants.
- (2) The tasks and responsibilities of the ECB provided for in Guideline (EU) 2019/1265 of the European Central Bank (ECB/2019/19) ⁽²⁾ should be updated to include the calculation and publication of compounded rates.
- (3) To enhance its clarity, the framework for the consultation of stakeholders provided for in Article 14 of Guideline (EU) 2019/1265 (ECB/2019/19) should be updated.
- (4) Therefore, Guideline (EU) 2019/1265 (ECB/2019/19) should be amended accordingly,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments

Guideline (EU) 2019/1265 (ECB/2019/19) is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

Subject matter

1. This Guideline governs the euro short-term rate and establishes the ECB's responsibility for its administration and the oversight of the euro short-term rate determination process. The Guideline also establishes the tasks and responsibilities of the ECB and the NCBs with respect to their contribution to the euro short-term rate determination process and other business procedures.

⁽¹⁾ 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 (OJ L 171, 29.6.2016, p. 1).

⁽²⁾ Guideline (EU) 2019/1265 of the European Central Bank of 10 July 2019 on the euro short-term rate (€STR) (ECB/2019/19) (OJ L 199, 26.7.2019, p. 8).

2. This Guideline governs also the calculation and publication of the compounded euro short-term rate average rates and the compounded euro short-term rate index.;

2. Article 2 is amended as follows:

(a) point (15) is replaced by the following:

‘(15) “stakeholders” means reporting agents, users of the euro short-term rate, users of the compounded euro short-term rate average rates and/or users of the compounded euro short-term rate index.;

(b) point (24) is replaced by the following:

‘(24) “material change” means a change to the euro short-term rate methodology, to the euro short-term rate determination process, or to the calculation and publication rules of the compounded euro short-term rate average rates and/or the compounded euro short-term rate index (including a decision to cease the publication of either or both of them) which could have an impact on the interests of stakeholders.;

(c) the following point (28) is added:

‘(28) “compounded euro short-term rate average rate” means an average rate calculated using only historical daily values of the euro short-term rate applying the calculation and publication rules published by the ECB.;

(d) the following point (29) is added:

‘(29) “compounded euro short-term rate index” means a daily index that permits the calculation of a compounded euro short-term rate average rate for any interest period on the basis of the published values for the index corresponding to the start and end dates of the given period.;

3. the following Article 4a is inserted:

Article 4a

Tasks and responsibilities of the ECB in relation to the compounded euro short-term rate average rates and the compounded euro short-term rate index

1. The ECB shall be responsible for the following tasks:

(a) the calculation and publication of the compounded euro short-term rate average rates for the following set of tenors: 1 week, 1 month, 3 months, 6 months and 12 months, as well as the compounded euro short-term rate index;

(b) the publication of the calculation and publication rules of the compounded euro short-term rate average rates and the compounded euro short-term rate index.

The ECB shall publish on its website the compounded euro short-term rate average rates for the set of tenors referred to in the first subparagraph, as well as the compounded euro short-term rate index, to five decimal places for the rates and to eight decimal places for the index no later than 9.15 CET on each TARGET2 business day, starting on 15 April 2021. There shall be no revision of the published values for the compounded euro short-term rate average rates or the compounded euro short-term rate index after that time.

2. Notwithstanding paragraph 1, the ECB and the NCBs shall not be responsible for the use of, or reliance on, the compounded euro short-term rate average rates and the compounded euro short-term rate index by a stakeholder or other third party in any financial instrument, contract, trade or any other commercial activity or investment decision. The ECB shall publish on its website a disclaimer of responsibility of the ECB and of the NCBs in that regard.;

4. in Article 6, paragraph 3 is replaced by the following:

‘3. In addition to the euro short-term rate methodology, the ECB shall establish and maintain business procedures describing:

(a) the actions to be taken by the ECB and by NCBs to carry out the euro short-term rate determination process, the publication and re-publication of the euro short-term rate, as well as post-production procedures;

(b) the actions to be taken by the ECB for the calculation and publication of the compounded euro short-term rate average rates and the compounded euro short-term index.;

5. in Article 7, paragraph 1 is replaced by the following:

‘1. The tasks and responsibilities set out in Articles 4, 4a and 5 shall not be outsourced to a third party.’;

6. in Article 8, the following paragraph 6 is added:

‘6. The calculation of the compounded euro short-term rate average rates and the compounded euro short-term rate index by the ECB shall be subject to the ECB business procedures referred to in Article 6(3) and to the complaints procedure set out in Article 11.’;

7. in Article 9(5), the following point (k) is added:

‘(k) to oversee any material change to the calculation and publication rules for the compounded euro short-term rate average rates and the compounded euro short-term rate index or any proposal to cease the publication thereof’;

8. in Article 11, the following paragraph 7 is added:

‘7. Written complaints may also be submitted to the ECB in accordance with paragraphs 1 to 6 in respect of the ECB’s calculation and publication of the compounded euro short-term rate average rates and the compounded euro short-term rate index pursuant to Article 4a.’

9. Article 14 is replaced by the following:

Article 14

Consultation with stakeholders

1. The ECB shall consult with stakeholders to the extent it is possible or practicable prior to any of the following:

- (a) the implementation of a material change to the euro short-term rate;
- (b) the adoption of policies or procedures on the possible cessation of the euro short-term rate;
- (c) the cessation of the publication of the compounded euro short-term rate average rates and/or compounded euro short-term rate index;
- (d) a material change in the calculation and publication rules of the compounded euro short-term rate average rates and/or the compounded euro short-term rate index.

In such a case the ECB shall publish the launch of a consultation procedure and hold it reasonably in advance of the proposed action.

2. In accordance with Article 9(5)(d) and (k), the Oversight Committee shall review proposed actions referred to in paragraph 1 before stakeholders are consulted.’.

Article 2

Taking effect and implementation

- 1. This Guideline shall take effect on the day of its notification to the national central banks of the Member States whose currency is the euro (NCBs).
- 2. The NCBs shall comply with this Guideline at the latest from 15 April 2021.

*Article 3***Addressees**

This Guideline is addressed to all Eurosystem central banks.

Done at Frankfurt am Main, 17 March 2021.

For the Governing Council of the ECB
The President of the ECB
Christine LAGARDE
