Council of the European Union

Brussels, 6 July 2021
(OR. en)

10046/21

Interinstitutional File:
2021/0131 (NLE)

CCG 36

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Draft DECISION of the Participants to the Arrangement on Officially Supported Export Credits as regards the amendment of provisions on Commercial Interest Reference Rates of the Arrangement

DRAFT

DECISION OF THE PARTICIPANTS TO THE ARRANGEMENT ON OFFICIALLY SUPPORTED EXPORT CREDITS AS REGARDS THE AMENDMENT OF PROVISIONS ON COMMERCIAL INTEREST REFERENCE RATES OF THE ARRANGEMENT

A. ANNEX XVI: COMMERCIAL INTEREST REFERENCE RATE (CIRR) PROVISIONS

SECTION 1: CONSTRUCTION OF THE CIRR

1. A Commercial Interest Reference Rate (CIRR) shall be established for each Participant's currency, provided that the required data is made available to the Secretariat. A Participant or a non-Participant may request that a CIRR be established for the currency of a non-Participant. In consultation with the interested non-Participant, a Participant or the Secretariat on behalf of that non-Participant may make a proposal for the construction of the CIRR in that currency.

2. Other Participants shall use the CIRR set for a particular currency should they decide to finance in that currency.

3. The CIRR is composed of a base rate and a margin.

4. The minimum CIRR for any currency shall be no lower than 15 basis points.

I. ESTABLISHMENT OF THE BASE RATE

5. CIRR rates shall be calculated monthly and will take effect on the 15th day of each month.

6. CIRR base rates are computed using government bond yields.

7. The maturity of the government bond to be used for each transaction shall be determined according to the following formula: drawdown period + 0,5 repayment period + 0,5 repayment frequency in years[1] (for standard repayment profiles). For transactions with a non-standard repayment profile, the following formula shall be applied: DP + [$\sum (t_{li} - t_{sp}) * D_{li}$] / $\sum D_{li}$ n i=1 n i=1 $*$ 1/365][2]. The result will be rounded to the nearest year, capped at ten years and floored at three years.

8. Participants shall compute the bond yields using the arithmetic mean of all the daily yields of the 3,4,5,6,7,8,9 and 10-year government bonds of the previous calendar month for their respective currencies. Those yields shall be reported to the Secretariat no later than five days after the end of each month and shall be made publicly available on a monthly basis.

---

1 Repayment frequency for annual repayment = 1, for semi-annual repayments = 0,5 and for quarterly repayments = 0,25.

2 t_{li} = date of the i_{st} installment; t_{sp} = date of the starting point; D_{li} = amount paid at the i_{st} instalment.

9. Participants may use linear interpolation in order to achieve the necessary yields as long as it is within the interpolation region of two-year government bonds up to and including 15-year government bonds. Extrapolation to a lower or higher bond yield shall not be allowed.

10. In the event that the data for one or more of the necessary government bonds could not be obtained (in accordance with Articles 8 and 9), there will be no CIRR in that currency for transactions requiring such maturities (Article 7 refers) unless the missing data concerns shorter maturities and data for higher maturities (up to 10 years) has been provided. In such event, the yields of the nearest higher government bond shall be used to compute the base rates requiring such shorter maturities.

II. ESTABLISHMENT OF THE MARGIN

11. The margin shall be calculated on a quarterly basis (respectively on 15 January, 15 April, 15 July and 15 October of each year) according to the five-year swap spread yields (difference between the five-year government bond rate and the five-year swap rate).

12. The margin shall be computed using the following formula: 0,5 ∗ (three-month average of daily five-year swap spread yields) + 80 basis points. The result shall be rounded to the nearest basis point and capped at a maximum of 120 basis points and floored at a minimum of 80 basis points.

13. The three-month average of the daily five-year swap spreads to be used shall be obtained by calculating the arithmetic mean of the daily five-year swap spread of the last three calendar months in the relevant currencies. They shall be reported to the Secretariat no later than five days after the end of each quarter.

14. In the event that the five-year swap spread is not available in the market for a given currency, the margin shall be set at 100 bps.

15. The resulting margins shall be made publicly available at the beginning of each quarter.

SECTION 2: APPLICATION OF THE CIRR

16. Where official financing support is provided for floating rate loans, banks and other financing institutions shall not be allowed to offer the option of the lower of either the CIRR (at time of the original contract) or the short-term market rate throughout the life of the loan.

I. VALIDITY PERIOD OF THE CIRR

17. A CIRR may be locked in before, at, or after the Date of Financial Contract (DFC).

18. In the case where a CIRR is locked in and held prior to the DFC, the Holding Period shall not exceed 12 consecutive months[1], the length of the Holding Period shall be decided at the latest at the Date of Quote (DoQ), and an additional spread shall be added to the applicable CIRR according to the table below.

Holding Period (in months)	Cost of Holding Period
1 m hold	20 bps
2 m hold	20 bps
3 m hold	20 bps
4 m hold	20 bps
5 m hold	20 bps
6 m hold	20 bps
7 m hold	23 bps
8 m hold	26 bps
9 m hold	30 bps
10 m hold	34 bps
11 m hold	39 bps
12 m hold	44 bps

[1] If there is a reset of the CIRR, it resets the countdown for the number of months back to zero.

19. If the Holding Period lapses prior to the DFC, the CIRR rate may be reset immediately or at a later time and held for a new Holding Period. If the signature of the commercial contract (SCC) has occurred prior to the reset, the reset rate shall not be lower than the latest previously locked-in rate. There is no limit to the number of times a CIRR may be reset.

20. Any change in the Interest Accrual Period prior to or at the DFC shall trigger a recalculation of the CIRR base rate. Such recalculation shall be based on the new Interest Accrual Period using the base rates in effect at the initial DoQ; it shall not be considered as a reset or a cancellation of the CIRR rate.

II. COMMITMENT FEE

21. A commitment fee shall be charged for direct credits. If the CIRR was locked in prior to or at the DFC, the commitment fee shall be charged immediately following the DFC. If the CIRR was locked in after the DFC, then it shall be charged immediately following the DoQ.

22. Participants shall charge a commitment fee at or above commercial market practices provided that such information is available.

III. VOLUNTARY CANCELLATION AND VOLUNTARY PREPAYMENT

23. If a CIRR rate is voluntarily cancelled, any subsequent CIRR rate that is quoted for the same transaction and the same exporter shall be no lower than the latest previously quoted CIRR.

24. Prior to the DFC, there is no cost for cancelling a CIRR rate or switching to a floating rate.

25. Once the DFC has occurred and irrespective of when the CIRR was set, in the event of voluntary cancellation or voluntary prepayment of a loan or any portion thereof, the borrower shall compensate the government institution providing official support for all costs and losses incurred as a result of such early prepayment or voluntary cancellation. This includes the costs to the government institution of replacing the part of the expected fixed rate cash inflow interrupted by the early prepayment or voluntary cancellation.

SECTION 3: REVIEW AND TRANSITIONAL AGREEMENTS

26. The provisions set out in this Annex shall enter into force two years after the date of agreement of the reform for transactions committed from that date onwards.

27. The Participants shall undertake a comprehensive review of the CIRR provisions detailed in this Annex at the latest four years after the date of agreement of the reform.

B. ADDITIONS TO ANNEX XV (LIST OF DEFINITIONS)

– Date of Financial Contract (DFC): the date at which all parties to the Financial Contract are bound, taking into account any entailing legal obligations.

– Date of Quote (DoQ): the date at which a CIRR is locked-in.

– Holding Period: the period starting at the DoQ and ending at the DFC.

– Interest Accrual Period: the period during which interest accrues (i.e., from the first disbursement until the last repayment of principal: drawdown period + repayment period).

C. MODIFICATION OF ARTICLE 20 UPON ENTRY INTO FORCE OF THE REFORM

20. CONSTRUCTION AND APPLICATION OF CIRRs

(a) The CIRR for official financing support provided under ~~the Arrangement and all of its Annexes other than~~ the Sector Understanding on Export Credits for Ships (Annex I) ~~Civil Aircraft (Annex III)~~ is determined and applied according to the provisions of Annex XVI.

(b) The CIRR for official financing support provided under the Arrangement and all of its Annexes, other than the Sector Understanding on Export Credits for Ships (Annex I) and the Sector Understanding on Export Credits for Civil Aircraft (Annex III), is determined and applied according to the provisions of Annex XVII.