

Polish Benchmark Reform is progressing as Polish Financial Supervision Authority confirms credibility of WIBOR

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The Polish benchmark reform, i.e. the change of the primary interest rate benchmark from the existing WIBOR rate (Warsaw Interbank Offered Rate) to a new rate WIRON (Warsaw Interest Rate Overnight) is progressing: since 2 December 2022, WIRON can be applied as a reference interest rate index.

Banks and other institutions are preparing for this transition. An example is ING Bank Śląski S.A., the first Polish bank to resign from offering mortgage loans based on WIBOR. According to a recent statement, from 17 December 2022 the bank will suspend offering mortgage loans based on a floating reference rate, as it intends to introduce WIRON-based mortgage loans in the second half of 2023. In the meantime, the bank will only offer fixed-rate mortgage products.

Powszechna Kasa Oszczędności Bank Polski S.A. (PKO BP), the biggest Polish bank, intends to offer WIRON-based products prior to 1 January 2023.

Notwithstanding the planned reform, on 6 December 2022 the Polish Financial Supervision Authority (the FSA) issued a statement rejecting certain recent media statements which contest and undermine the credibility of WIBOR. According to the FSA, WIBOR is compliant with the requirements of Regulation (EU) No. 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds (**the BMR Regulation**), in particular FSA notes that:

- in December 2020 the benchmark administrator (GPW Benchmark S.A.) was granted a licence to operate and was entered into the register maintained by ESMA;
- the benchmark administrator is required to maintain an adequate organisational structure, an internal control system and is subject to external control audits and supervision by FSA; and
- the benchmark administrator is required to establish appropriate procedures to examine the quality of data used to determine the benchmark and to prevent doubtful data from affecting WIBOR.

The FSA also confirmed that to date, it has not been notified by the benchmark administrator of any case of receipt of suspicious input data in relation to WIBOR and that its own supervisory activities have not indicated any irregularities that would qualify as manipulation of the benchmark index.

The FSA's view is that the Polish benchmark reform does not arise from any irregularities relating to WIBOR, but it is rather in line with the global trend of replacing the existing forward-looking rates (based on quotations given by the banks as to the expected costs of inter-bank lending) with backward-looking rates which are based on actual overnight transactions (also known as risk-free rates or **RFRs**). Such RFRs better reflect the historical state of financial markets, as the inter-bank lending transactions have decreased significantly in recent years. The best-known example of such a benchmark reform is the replacement of LIBOR with SONIA (an RFR rate), which came into effect in the English market in 2021.

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Accordingly, the Polish Working Group formed by FSA recommended that WIBOR be replaced by the RFR WIRON rate as the reference rate relating to, among other things, loan agreements, financial instruments such as bonds and derivatives as well as investment fund fees.

According to the road map adopted by the Polish Working Group, the key milestones are below:

	(A) IN Q4 2022:	(B) IN 2023:	(C) IN 2024:	(D) IN 2025:
(I)	WIRON administrator (again GPW Benchmark) fulfils formalities allowing to use WIRON in the financial market;	WIRON-based loans and other financial products may be offered by banks alongside WIBOR-based products;	New WIRON-based products are offered by banks and other financial institutions, including in particular mortgage loans offered to customers;	WIBOR and WIBID rates are no longer published; and
(II)	ISDA Definitions documentation is adjusted, allowing to use WIRON in derivative transactions in the global financial market; and	educational and informational campaign on the usage of WIRON;	WIRON-based bonds are issued by corporate entities, banks and municipalities;	financial institutions convert existing agreements and instruments from WIBOR to WIRON taking into account the rules introduced in the regulation of the Minister of Finance, including the correcting spread for the calculation of interest.
(III)	National Working Group prepares recommendations for using WIRON with respect to financial market products, including in particular interest rate conventions.	work on aligning IT systems, internal procedures and relevant contractual templates;	centrally cleared transactions based on WIBOR are available for the derivatives market;	
(IV)		building liquidity in the financial derivatives market to be based on WIRON, starting with bilateral swap transactions; and	completed work on adapting IT systems and internal procedures in order to implement WIRON across a wide range of financial products; and	
(V)		prerequisites for a regulatory event are verified in accordance with the BMR Regulation, which will form the basis for the Minister of Finance's designation of WIRON as a substitute for WIBOR.	clearing houses ensure that existing derivative contracts using WIBOR can be replaced by WIRON-based ones.	

It appears that the Polish benchmark reform is inevitable at this stage, but it will continue to be a lengthy and complex process which will affect all entities in the financial market and will involve an enormous amount of work to adjust their products and procedures. There is a common expectation that WIRON-based rates should be lower compared to WIBOR, but the correcting spread to be adopted in connection with such a change is yet to be determined. The Wolf Theiss team will be monitoring the developments to keep market participants up-to-date.

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