LIBOR Transition Recent Developments

FCA announces cessation dates

In early March 2021, the Financial Conduct Authority (FCA) formally announced the timing of future cessation and loss of representativeness of the LIBOR benchmarks. The announcement follows the results of a consultation by ICE Benchmark Administration (IBA), LIBOR's administrator, which confirmed IBA's plans for the benchmark's cessation.[1] The FCA announcement is a key market milestone in the transition away from LIBOR, providing certainty over cessation timelines across all LIBOR currencies. The FCA statement includes firm declarations on the future permanent cessation or loss of representativeness of LIBOR settings, as set out in Figure 1. A key aspect of this announcement was that 1, 3, 6 and 12-month USD LIBOR would continue to be published until June 30, 2023.

Figure 1. Timetable of LIBOR discontinuance events

LIBOR	Tenor	End of Panel Bank Submissions	
		Date	Result
U.S. Dollar (USD)	1-week, 2-month	Dec 31, 2021	Permanent cessation
	O/N, 12-month	Jun 30, 2023	Permanent cessation
	1-month, 3-month, 6-month	Jun 30, 2023	Loss of representativeness
Swiss Franc (CHF)	All Tenors	Dec 31, 2021	Permanent cessation
Euro (EUR)	All Tenors	Dec 31, 2021	Permanent cessation
British Pound (GBP)	O/N, 1-week, 2-month, 12-month	Dec 31, 2021	Permanent cessation
	1-month, 3-month, 6-month	Dec 31, 2021	Loss of representativeness
Japanese Yen (JPY)	O/N, 1-week, 2-month, 12-month	Dec 31, 2021	Permanent cessation
	1-month, 3-month, 6-month	Dec 31, 2021	Loss of representativeness

Source: Financial Conduct Authority, 03/05/2021; https://www.fca.org.uk/news/press-releases/announcements-end-libor

Impact on U.S. dollar LIBOR

- The FCA announcement triggered the fixing of ISDA's spread adjustment for all LIBOR settings, including the USD settings expected to be published through June 2023.[2] These IBOR fallbacks will support the transition of products from LIBOR to SOFR
- The announcement of non-representativeness for some key LIBOR settings, rather than permanent cessation, leaves the door open for their continued publication on a "synthetic" basis. The FCA will consult on synthetic versions of the one-, three- and six-month settings of USD, GBP and JPY LIBOR

[1] Source: https://www.theice.com/publicdocs/Feedback_Statement_on_Consultation_on_Potential_Cessation.pdf.

[2] Source: https://assets.bbhub.io/professional/sites/10/IBOR-Fallbacks-LIBOR-Cessation_Announcement_20210305.pdf.

ARRC casts doubt on a recommended term SOFR for 2021

In late March, the Alternative Reference Rates Committee (ARRC) announced that, based on the current level of liquidity in the secured overnight financing rate (SOFR) derivatives markets, it would not be able to recommend a forward-looking SOFR term rate by mid-2021, as originally planned in the ARRC Recommended Best Practices for Completing the Transition from LIBOR.[3] Fed (Vice Chair Quarles) and ARRC leadership (Tom Wipf) have been consistent in recommending caution and careful consideration of adopting any term rate with limited volumes as a candidate for LIBOR replacement. The underlying concern is to avoid an "inverted pyramid" of volume in which the derivative market tied to a non-SOFR index is larger than the underlying SOFR market.

The ARRC is encouraging market participants not to wait for a forward-looking term rate for new contracts, but instead to transition from LIBOR using the tools available now. At the same time, it announced key principles for an ARRC-recommended forward-looking SOFR term rate on 4/20/2021 (meet ARRC criteria for alternative reference rates, be rooted in robust and sustainable derivatives transactions, and have a limited scope of use). Subsequently, the CME announced a CME Term SOFR which, while not endorsed by ARRC, does align with the ARRC's principles for such a rate.

Impact

- The ARRC says firms should transition without term SOFR. ARRC recommends SOFR averages and index data provided by the New York Federal Reserve (newyorkfed.org).[4] These averages and index data can be applied in advance or in arrears, as described in the updated User's Guide to SOFR[5]
- The ARRC suggests market participants should seek alternative reference rates (ARRs), such as daily simple SOFR, SOFR compounded in advance or SOFR compounded in arrears
- Until the overnight collateral repo market rate moves meaningfully off zero, compounded SOFR rates are also expected to remain near zero which will slow down the pace of its adoption for new product in some sectors
- Since the announcement, credit sensitive term rates, such as BSBY and AMERIBOR, have gained more market attention. As a result, preparing for operating in a multi-rate environment for a longer period of time will be even more imperative

New York establishes legal clarity for LIBOR cessation

New York State Governor Andrew Cuomo signed Senate Bill S297B into law in early April. The purpose of the new law is to minimize costly and disruptive litigation by providing legally binding fallback certainty following the permanent discontinuance of LIBOR.[6] Key provisions include prohibiting parties from refusing to perform contractual obligations or declaring a breach of contract as a result of discontinuance of LIBOR or the use of a LIBOR replacement rate deemed acceptable under the law; establishing that the replacement is a commercially reasonable substitute for and a commercially substantial equivalent to LIBOR; provision of a safe harbor from litigation for the use of the recommended benchmark replacement. These provisions are projected to remediate the lack of commercially reasonable fallback provisions in most investments, because New York State law governs the bulk of USD LIBOR contracts. Other jurisdictions that pursue legislative solutions are likely to follow New York's lead.

Impact of NYS law

- For many investments, codifies ARRC fallbacks by operation of law[7]
- Allows existing contracts with no contemplation of LIBOR cessation to use an index replacement recommended by regulators
- Reduces risk of legacy fallback; NYS law may boost momentum for other state and federal laws

[3] Source: https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/arrc-press-release-term-rate-for-publication.

[4] Source: https://www.newyorkfed.org/markets/reference-rates/sofr-averages-and-index.

[5] Source: https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/users-guide-to-sofr2021-update.pdf.

[6] Source: N.Y. Governor Signs Libor Fix Into Law to Avert Transition Chaos - Bloomberg.

[7] Source: https://www.nysenate.gov/legislation/bills/2021/S297.

Federal legislation

The Federal Reserve (Powell)[8] and U.S. Treasury (Yellen)[9] support a federal legislative solution similar to the New York law. The House Financial Services Committee is now considering similar LIBOR replacement legislation that would allow contracts referencing LIBOR without adequate fallback provisions upon LIBOR's discontinuation, to reference the SOFR without the need for an amendment or the concern of becoming subject to litigation. The legislation also would require the Federal Reserve Board ("FRB") to establish regulations regarding how SOFR or an adjusted SOFR should be used as a replacement reference interest rate for certain LIBOR-based contracts.

Voya's LIBOR transition program

Voya Financial has taken proactive steps to ensure that as a market participant, fund manager and counterparty, we are well-positioned to adapt to evolving market conventions, norms and benchmarks. In 2019, we established a comprehensive LIBOR transition program and governance structure, headed by the Voya Financial Risk Committee, with executive sponsorship from Voya Financial's CFO and Voya Investment Management's CEO. The program is chartered to manage the financial and non-financial risks related to LIBOR cessation across the entire Voya Financial organization. One of the most significant areas of focus of the project is the LIBOR exposure of LIBOR-based floating rate invested assets of Voya's proprietary subsidiaries and investment advisory clients. The LIBOR program includes project managers, AI investment analysis and workstreams dedicated to contract remediation, product transition, system and operational readiness, finance and client communications. Project managers and functional area business leads are coordinating these workstreams and their related interdependencies.

Integrated into the LIBOR program are a number of third-party vendors and services to provide market and legal expertise, project management support, fallback data analysis, back office services and application services.

Voya's path forward

In light of the recent announcements and legislative developments, Voya will seek to:

- Maintain project momentum to be fully operational with SOFR and ARR needs, across all investment asset classes, by year-end 2021
- Incorporate recent regulatory and legislative developments to address pending LIBOR cessation this calendar year, seeking to reduce risks and exposures by the end of 2021 to the extent practicable
- Support our clients, regulators or other interest parties throughout the LIBOR transition, keeping them apprised of new developments as appropriate

The Voya LIBOR cessation transition program continues to analyze the risks inherent in LIBOR exposures expected to be retained past 2021. We are embedding processes and controls to monitor and manage such exposures, tracking positions and testing scenarios for each line of business. In addition, we are monitoring developments for LIBOR investments and products that are subject to fallback legislation.

Our approach remains pragmatic. We recognize that U.S. dollar LIBOR will continue to be published until June 2023 and more legislative solutions are likely; therefore, we will not seek to close out every position. We will continue to evaluate where it's advantageous to take action or not for our clients and products, keeping a close watch on risk. We seek to stay nimble where there may be market impact, e.g., monitoring alternative reference rates outside SOFR that are gaining traction.

[8] Source: https://structuredfinance.org/news/structured-finance-association-supports-federal-legislation-to-ease-libor-transition/.

[9] Source: https://structuredfinance.org/news/structured-finance-association-clear-consensus-on-need-for-federal-legislation-to-ease-libor-transition/.

Disclosures

Past performance does not guarantee future results.

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