Minutes of LIBOR Trade Association Working Party Meeting

held on 4 October 2021

via teleconference

Present:

ACT
AFB
AFME
APLMA
ICMA
ICMSA
ISDA
LMA
LSTA
UK Finance

1. Introduction

The purpose of the meeting was for the trade associations to provide updates on any developments in respect of LIBOR transition since the last meeting.

2. UK Finance update

UK Finance was happy to see the FCA consultation on the scope of use of synthetic LIBOR and the draft notice on methodology, both of which were released on 29 September. UK Finance were pleased with the proposal from the FCA to permit legacy use of LIBOR in all contracts except cleared derivatives at least for the duration of 2022.

UK Finance is also keen to see the Critical Benchmarks (References and Administrators' Liability) Bill (the **HMT Bill**) progress through the UK's legislature. UK Finance also welcomes the FCA and HM Treasury joint webinar which is taking place on 8 October, where the HMT Bill is due to be explained. In particular, UK Finance has received questions on the specificity of some of the drafting in the HMT Bill and is keen to gain clarity on this.

UK Finance noted that the FCA's consultation also includes a proposal to prohibit new use of USD LIBOR.

The LMA noted that the FCA had put out some guidance in their conduct risk Q&A on spread adjustments given the differences between historical and forward spreads. LMA asked whether parties are using the approach noted in the Q&A or whether there are still issues arising with that approach. UK Finance noted that this issue was coming up where the credit adjustment spread (**CAS**) based on historical medians had been built-in to the contract.

3. LSTA update

The LSTA noted that the activity in non-LIBOR loans has been relatively low, but that it has seen some transactions priced against SOFR, such as the Sanderson Farms and Ford facilities. The LSTA hopes that the market is at a point where activity can now increase. LSTA also noted that there is still some interest in credit sensitive rates (**CSRs**), especially amongst regional banks who are concerned about their cost of funds. In relation to CSRs, the LSTA is working with its members to produce fallback language. The LSTA also noted that there is momentum behind term SOFR and it is likely that this is where we will see most adoption in the syndicated loan space. The LSTA has heard of deals in the pipeline and so is hoping that there will be a lot of activity in the next month or so.

The LSTA has not heard from any market participants who are operationally unprepared for the transition, however there are a lot of discussions in the market on the appropriate CAS on issue and pricing.

The LSTA learned two weeks ago that market participants require a licence from CME to use term SOFR. The LSTA has published an article on its website for information on these licences. CME has said that it will work with market participants on this.

The LMA asked if the LSTA knew whether the ARRC was going to issue any guidance on what constitutes a 'new loan' after year-end. LSTA understands that there are no plans to come out with guidance on this issue since the regulators want market participants to remain focussed on active transition away from LIBOR, without spending their time considering which loans they can exclude from the transition.

4. LMA update

The LMA held a LIBOR panel at the LMA's Syndicated Loans Virtual Conference, which is available on demand until 15 October. LMA also held their quarterly LIBOR transition update webinar on 17 September with a live Q&A session at which there were a number of questions on term SOFR,as well as some more technical questions on CAS that the LMA were unable to answer due to their commercial nature.

The LMA is still working on its term SOFR facility for developing markets, with feedback currently being collected from its Working Party. The LMA is also working on converting its leveraged facility agreement and intercreditor agreement. It is also currently working on transitioning the references to LIBOR in its French, Spanish and German law documentation to accommodate the use of RFRs.

The LMA noted that there is good progress on secondary but there remain questions on cost of carry. It is currently revising its documentation but the LMA believes that it is now simpler for market participants so is satisfied with the direction of progress. The LMA also noted that there is a flurry of transition activity, the rate of which is in danger of overwhelming the market currently.

5. ISDA update

ISDA noted that it, the FCA and the FRB exchanged letters on the issue of CSRs. ISDA continue to work with the LSTA to hedge CSRs to the extent they are being used. ISDA will be including in their rate options references to the latest ICE RFR Indices, which were published this month. ISDA is also working closely with the ARRC and the Bank of Japan to update its documentation for Japanese yen and USD swap rates.

6. JSLA update

The JSLA was not able to attend the meeting, but had sent a summary update by email, which was read out:

The JSLA is trying to reduce the outstanding legacy contracts for loans referencing JPY LIBOR, and have almost proceeded as planned. According to the top three banks, as for domestic syndicated loans:

- Over 90% legacy contracts have decided their new benchmark;
- Over 70% have their voting process finished; and
- Over 60% have been signed.

7. ICMSA update

ICMSA is also looking at the FCA's consultation and will likely be responding to it. ICMSA notes that there has been a lot of activity with respect to transitioning recently. There is a lot of activity in relation to existing deals but also in respect of outward facing bond payments to bondholders.

8. ICMA

ICMA is looking in detail at the FCA consultation as well as the [Public Consultation on the Treatment of Tough Legacy Contracts in Japan] that was launched by the Bank of Japan.

ICMA is also looking at some operational issues that have been brought to its attention. For instance, ICMA and ICSMA looked at the availability and function of independent advisers. It was ultimately decided that a publication on the issue was not necessary. Nevertheless, there will be a piece on the topic in ICMA's quarterly report.

ICMA continue to feedback any issues brought to its attention by the Bond Market Sub-group in anticipation of year-end and has offered its assistance to regulatory bodies with respect to the recent FCA consultation and its implementation.

9. APLMA

The APLMA noted that there has been a lot of activity in APAC. Market participants are aware of developments in the Japanese yen, sterling, and euro markets, but the majority of attention remains fixed on the USD market as this constitutes approximately 90% of the syndicated loan market in APAC.

The APLMA conducted a survey on term SOFR in September which attracted over one hundred responses. 52% were strongly in favour of adopting term SOFR as the primary benchmark for USD denominated syndicated loans in APAC. 45% agreed that it would be helpful as one of the options available to the market. 40% responded that having different pricing conventions did not actually pose a problem for their organisations, though 30% said that it did pose a problem to theirs. The APLMA's sense is that market participants are in agreement that the market will be living with different conventions in different currencies.

A lot of market participants prefer term SOFR in APAC for its simplicity in terms of implementing it in place of LIBOR, save for the issues that remain outstanding around CAS. There are now also fewer problems on hedging in the market than there were before.

The APLMA noted that it published its day-one SOFR documents at the beginning of the year, as well as a rate switch document in March. However, the APLMA noted that market participants are still hesitant to actually adopt SOFR, even term SOFR, for the time being, in spite of the APLMA's attempt to educate and help market participants and the HKMA has concerns. However, the APLMA predict a flurry of activity between now and year-end.

The APLMA has been asked by its members to produce an exposure draft term SOFR document. It hopes to progress the document through its documentation committee within the next couple of weeks before testing it with the market.

10. AFME update

AFME noted that Toby Williams of the FCA spoke as part of a panel during its virtual series building up to Global ABS. [His remarks] have been published on the AFME website.

AFME also note that it intends to respond to the FCA consultation of 29 September.

11. AFB update

AFB noted that its members are busy focusing on the job of transition. AFB also confirmed that it will be looking at the FCA consultation like other members of the Working Party.

12. ACT update

The ACT noted feedback from the corporate market is that market participants are now working at a detailed level with respect to their progress in the transition. The ACT will also, like other Working Party members, be looking at the FCA consultation to see if a response is necessary.

One outstanding matter for the ACT is the issue of the CAS. The main issue is knowing what CAS will look like at the beginning of 2022 and start to manage expectations in the market.

13. AOB

The LMA thanked members of the Working Party for their updates. The date of the next meeting is to be set for November 2021 and minutes would be circulated.