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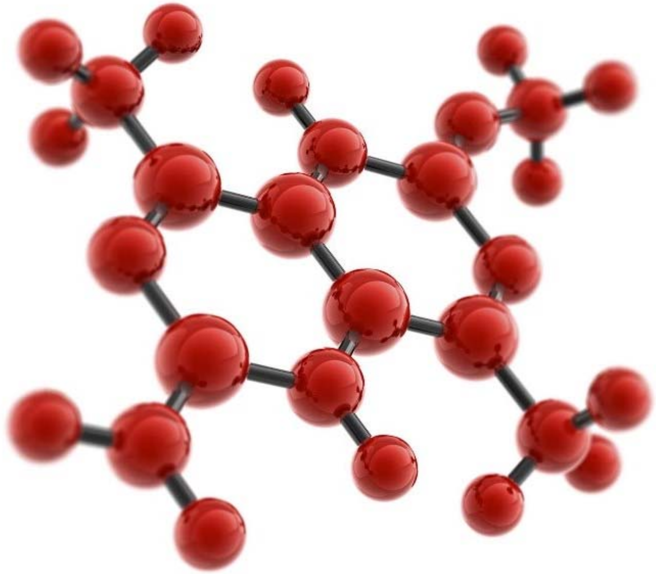

IBOR Transition

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23 September 2020

Key questions

1	**What are the key challenges of IBOR transition?**
2	What are the recent key supervisory / legislative responses?
3	What is the immediate impact on your business?
4	What is the impact of the transition to risk free rates (RFRs) per product type?

Inter Bank Offered Rates (IBORs) – Background

- EU Benchmarks Regulation (BMR) applies from 1 January 2018. IBORs are “benchmarks” for purposes of BMR. “Users of benchmarks” (as defined) are subject to various obligations under the BMR: A.28(2)/ A.29(2): requirement for robust written plans if a benchmark materially changes or ceases to be provided

- Market participants should assume that LIBOR and EONIA will be discontinued at the end of 2021

- EURIBOR is NOT scheduled to be discontinued currently. However, fallback provisions have to be developed and included as required for purposes of BMR

Key challenges

1. **Economical issues** – need for spread adjustment
2. **Regulatory compliance** – ensure compliance with the regulatory requirements
3. **Contractual issues** – existing fallbacks do not work; significant repapering exercise; litigation risk
4. **Coordination across products (loans, bonds, derivatives)** – desire for consistency to minimise basis risk

Key questions

1	What are the key challenges?
2	**What are the recent key supervisory / legislative responses?**
3	What is the immediate impact on your business?
4	What is the impact of the transition to RFRs per product type?

Recent key regulatory/ legislative responses

DNB/ AFM

June 2020	Further consultation of DNB/ AFM with selection of banks, insurers and pension funds and request to complete a survey on the interest rate benchmark transition, which will be carried out semi-annually

EC/ ECB

July 2020	Legislative proposal amending BMR addressing LIBOR cessation risks. The three main pillars to the proposed BMR amendments are: (i) a new statutory power for the EC to designate a replacement rate if and when a benchmark whose cessation would result in significant disruption in the functioning of financial markets in the EU ceases to be published; (ii) statutory replacement rate to replace, by operation of law, all references to the "benchmark in cessation" in all contracts entered into by an EU supervised entity; and (iii) for contracts not involving an EU supervised entity, Member States are encouraged to adopt national statutory replacement rates.
18 September 2020	ECB opinion on the legislative proposal published

Key questions

1	What is happening to the IBORs and what are the key challenges?
2	What are the recent key supervisory / legislative responses?
3	**What is the immediate impact on your business?**
4	What is the impact of the transition to RFRs per product type?

Immediate impact - Legacy

Analysis to be undertaken on products (derivatives, loans, bonds and other products/assets), the impact of transition strategies on balance sheet, P&L and risk exposures across a range of financial and risk models

Agreements to provide for fallback wording and agreements with LIBOR and EONIA benchmarks will need to be updated or an alternative method needs to be applied (such adherence to a protocol) before rates are discontinued (<u>so by end of 2021</u>)

Client outreach to educate client base, introduce alternative rate products. Clear communication (with counterparts) is key as the transition may involve litigation and reputational risk

Immediate impact – New transactions

- Embed alternative rates in new product suite, including updating documentation, pricing, risk management and all operational processes
- Consider temporary disclosures for term sheets for new transactions
- Clear communication (with counterparts)

Key questions

1	What are the key challenges?
2	What are the recent key supervisory / legislative responses?
3	What is the immediate impact on your business?
4	**What is the impact of the transition to RFRs per product type?**

Derivatives: Transition method and key considerations

Transition method:

- ISDA is finalizing IBOR Fallbacks (to amend the ISDA 2006 Definitions for new trades) and a related protocol (to amend existing trades)
- Publication of the protocol is still expected in September 2020*

Key considerations:

- Inconsistent approaches to fallbacks across financial contracts (linked-products) may create hedging mismatches across products and between markets
- Particular challenges for effecting amendments to floating rate notes and structured finance obligations where ISDA protocol solutions are unavailable and consent thresholds may be high
- Compensation for legacy swaption contracts

Loans: Transition method and key considerations

Transition method:

- LMA standard replacement of screen rate provisions
- Replacement/ amendment agreements
- On 11 September 2020, LMA published an Exposure draft Rate Switch Agreement

Key considerations:

- All lender consent to change interest rate may apply in some cases
- Large diligence and repapering exercise to remediate
- Multi-currency facilities may go through the exercise repeatedly
- Final design of RFRs remains uncertain (such as for Euribor)
- Different approach under market participants

Bonds: Transition method and key considerations

Transition method:

- Unlike derivatives, there is currently no protocol mechanism to amend legacy documentation. Options include redeeming the bonds early if there is a call option, specific processes for replacing the benchmark as provided under the notes or a consent process

Key considerations:

- Consent threshold may be high to change interest rate
- Final design of RFRs remains uncertain (such as for Euribor)
- Different approach under market participants

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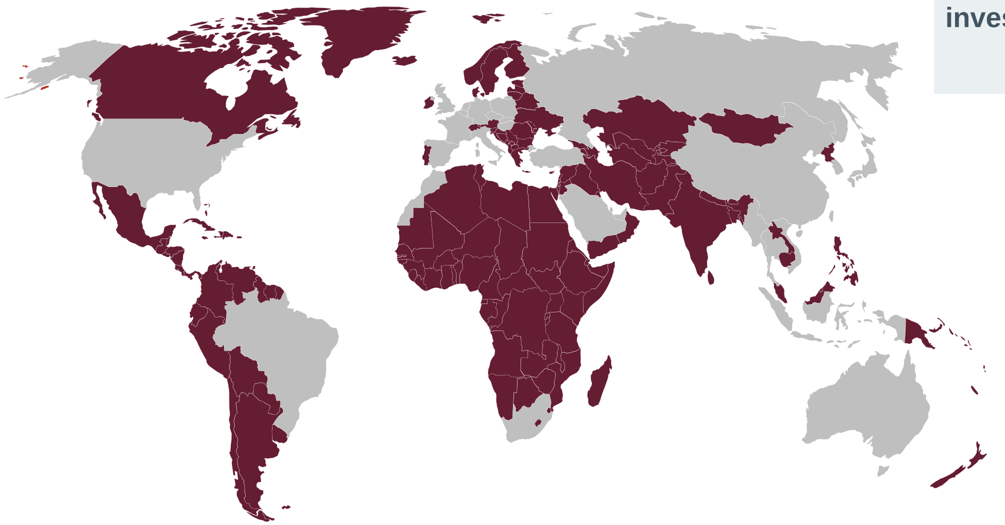
We Are Where You Need Us

A&O has over 5000 lawyers in over 40 jurisdictions. Allen & Overy is recognised as a tier 1 finance law firm.

Our Global Coverage



Our values

Diversity & Inclusion	Sustainability
Pro bono & community investment	Charitable giving

Best in class, market leading product expertise, low risk and high quality transition

Chambers Global 2018

Ranked Band 1 – Securitisation

Global Capital European Securitisation Awards 2019

Overall Best Securitisation Law Firm of the Year

Chambers Global 2020

Ranked Band 1 – Debt

Risk Awards 2020

Derivatives Law Firm of the Year

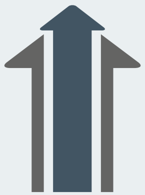
Global Capital Bond Awards 2019

Best Law Firm – Corporate Bonds

Chambers Global 2020

Ranked Band 1 – Structured Finance Securitisation & Derivatives

Chambers Global wide 2020



Band 1 – Banking & Finance

IFLR100 2020

Tier 1 – Banking and Project Finance

The Legal 500

Tier 1 – Banking & Finance (asset and structured finance, borrower side and lender or arranger side)

Selection of our direct IBOR expertise

- A&O has successfully managed over 20 major regulatory change repapering projects over the past 5 years, spanning Variation Margin, Initial Margin, Brexit, retail bank ring-fencing and more. A&O has been responsible for developing template documentation which have become the market standard and been used to repaper over 50,000 complex contracts.
- A&O has unparalled IBOR transition experience. This includes strategic legal advice, technology and resourcing solutions.
- A&O is heavily engaged in industry working groups relating to IBOR transition:
  - At the currency working group level, we participate in the Euro Risk-Free Rate subgroup on legal robustness and the bond market sub-group, as well as the loan market sub-group of the Bank of England Sterling Risk Free Reference Rates Working Group.
  - At the trade association level, we are one of a select few law firms who are long standing members of the LMA IBOR working group and the LMA documentation committee. In the US, we regularly attend LSTA meetings, including the primary markets committee of the LSTA.
  - We advised ARRC working group members and consulted with the LSTA in relation to responding to the consultations published earlier this year.
- A&O is a member of the Regulatory Dependencies Task Force convened by the Bank of England and the FCA which is responsible for considering regulatory barriers to transition.
- A&O is on the CFTC's Market Risk Advisory Committee and the Interest Rate Benchmark Reform Subcommittee.
- Advising global investment banks on a range of IBOR legal issues, in particular in relation to mitigation of litigation and conduct risks (for example conduct frameworks, risk disclosures, risk "heat mapping" and unfair contract terms).
- Advising one of the world's largest CCPs on IBOR reform, with a particular focus on changes to the discounting of cleared transactions, which will have broader application to uncleared transactions too.
- Implementing new fallbacks, carrying out due diligence on IBOR portfolios, working on IBOR playbooks, establishing governance for clients, including against anti-competitive conduct, and providing legal opinions in relation to the change in methodology in IBORs (including EURIBOR).
- Advising the administrator of the EURIBOR benchmark for over five years on the IBOR reforms.

Questions?

These are presentation slides only. This document is for general guidance only and does not constitute definitive advice.