Minutes of LIBOR Trade Association Working Party Meeting

held on 21 April 2021

Present:

AFME
APLMA
ICMA
ICMSA
ISDA
LMA
LSTA
SIFMA
TACT
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. AFME

AFME noted that there were no further updates since the last meeting, other than those already mentioned by other trade associations below.

3. APLMA

APLMA noted that the syndicated loan market in Asia is still at a fairly early stage of LIBOR transition and unfortunately it has not yet seen any pilot deals referencing Risk-Free Rates (**RFRs**). APLMA highlighted that the Asian syndicated loan market does not yet have a consensus on a number of key open issues (including agreement over RFR construction, lookback periods, and credit adjustment spreads). In particular, it was noted that the APLMA's day-one SOFR and Switch "Discussion Documents" published in January 2021 did not receive the level of feedback expected on such key transition issues.

Nonetheless some of the larger international banks are making efforts to drive transition, but regulators are not taking as an active role as one might have expected. The Hong Kong Monetary Authority (**HKMA**) has now updated its milestone deadline from 30 June 2021 to end-2021 for no new LIBOR originations in loan products, to align with the end-2021 milestone set by the US Federal Reserve. Although certain jurisdictions have already started to use overnight RFR's (such as the SORA in Singapore), the alignment to US dollar LIBOR milestones is the most relevant as US dollar LIBOR makes up an estimated 90% of the syndicated loan market in Asia. Hence the 5 March 2021 announcement by the UK Financial Conduct Authority (**FCA**) on the future cessation and loss of representativeness, in particular, of certain US dollar LIBOR settings after mid-2023 for legacy contracts, was warmly received in most quarters.

APLMA will shortly also be producing two new guidance notes. The first with recap on the key open issues where the APAC markets have still to find a landing (especially calculation methodologies, credit adjustment spreads, waterfall conventions, etc); and the second note will focus on legacy contracts and what borrowers and lenders should be doing now.

The LMA thanked the APLMA for highlighting progress levels in the syndicated loan market in Asia and agreed that levels of awareness regarding LIBOR transition in emerging markets generally needs more attention. The LMA highlighted that it intends to address these markets on crucial transition considerations during its Annual Developing Markets Conference on 28 April 2021. APLMA agreed and noted that awareness of LIBOR transition issues in Asia is generally not as expected at this stage and education efforts are important.

4. ICMA update

ICMA noted that it has been looking at the implications of the Dear CEO letter published by the FCA and the UK Prudential Regulation Authority in March 2021. It was highlighted that this provided the market with useful guidance during the transition and ICMA continues to engage in dialogue with the Sterling Working Group on Risk-Free Reference Rates (**£RFRWG**) on transition progress for the bond market.

Regarding the consultation on supporting a recommendation nominating a successor rate for legacy GBP LIBOR bonds, ICMA noted that the £RFRWG has received responses and is at the conclusive stages of working through these. ICMA highlighted that the £RFRWG is currently looking at a few points in particular, which will be discussed at the Bond Market Sub-Group meeting on 22 April 2021.

Regarding fallbacks, ICMA published a paper with the Bond Market Sub-Group on practicalities of going through a consent solicitation process as a part of LIBOR transition. ICMA will also speak with its members to see if there were any further issues during this process following the 5 March 2021 announcements by the FCA on the future cessation and loss of representativeness of all LIBOR settings.

ICMA also continues to follow the various tough legacy solutions and is supporting the £RFRWG discussion with UK HM Treasury on ensuring contractual continuity for tough legacy (note: the chair of the £RFRWG subsequently published a letter on 21 April 2021 to HM Treasury requesting an update following the publication in February 2021 of the consultation to support the wind-down of critical benchmarks and a legal supplementary safe harbour).

Separately, ICMA noted that it is putting together its AGM panel which will include heads of the main global groups who will be invited to speak on global developments.

ICMA suggested that the Working Party consider if there were any other remaining or outstanding issues which have not yet been touched on as a part of the transition, which should be thought through or raised to the market given that end-2021 is now nearing and Q3 deadlines will soon approach. ICMA noted that this will be a topic of discussion in the Bond Market Sub-Group. The LMA noted that there are ongoing discussions on this between the chairs of the sterling loans groups to see where there are any outstanding issues that have not yet been addressed or where the market needs more support.

5. ICMSA update

The ICMSA is currently finalising the publication of its latest bulletin setting out the role of Calculation Agents and Benchmark Agents/Independent Advisers in the context of international debt capital markets' instruments, which should be available next month.

ICMSA continues to look at the implications of LIBOR transition on, amongst other stakeholders, agents and trustees in particular, in relation to the above instruments, which are highlighted in the new bulletin.

The ICMSA continues to examine the various tough legacy solutions particularly now that these may have been triggered in certain legacy transactions (signed in 2018 and 2019) following the 5 March 2021 FCA announcement. This will be dependent upon which form of fallback language may have been enacted, and the appropriate actions to be taken by the parties involved. To this extent, it will be important to have safe harbour provisions as otherwise agents and trustees can be placed in challenging contractual situations. ICMSA highlighted that it may also be challenging for such stakeholders to navigate the differences in the various pieces of tough legacy legislation which now exist in the US, EU and proposed in the UK on deals which have international counterparties and are governed by different laws and could therefore be caught by these multiple legislative solutions. It was highlighted that there may also be economic challenges (for example a deal could be governed by different RFRs where each rate may be governed by different conventions and therefore have diverging calculation methodologies) and it is yet to be seen how this will be navigated. ICMA highlighted that this is particularly concerning for alignment across different products. For example, an underlying loan obligation may be calculated using a 5-business day lookback without shift and a hedged derivative product may use a 2-day business day lookback with shift approach).

6. ISDA update

ISDA hosted its Virtual Benchmarks Strategies Forum on 13 April 2021. Over 1000 participants attended this event live and an estimated 2000 participants had registered to watch on demand. The event highlighted key LIBOR transition progress globally, including setting out the implications of the FCA announcement on the future cessation and loss of representativeness of LIBOR for the US dollar market. There was also a speech by Edwin Schooling-Latter of the FCA.

ISDA flagged in an email update the following other updates:

ISDA published in April its 2021 Benchmark Reform Milestones research paper, which examines several major developments in 2021 that have been announced and/or are expected to occur related to the adoption of Risk-Free Rates (**RFRs**).

Regarding market developments, the March ISDA-Clarus RFR Adoption Indicator decreased to 8.8% in March compared to 10.6% in the prior month. Overall, the indicator tracks how much global trading activity is conducted in cleared over-the-counter and exchange-traded interest rate derivatives referencing RFRs in six major currencies. ISDA also noted that it will be publishing its upcoming Q12021 Interest Rate Volumes report.

Regarding documentation, ISDA will soon be publishing a supplement for bespoke compounding/averaging RFR calculations and accompanying definitions for overnight RFRs. In addition, ISDA will publish another upcoming supplement with other versions of RFRs (including indices, averages published by central banks and credit sensitive US dollar rates).

ISDA also continues its work on fallbacks for ICE swap rates.

7. JSLA update

JSLA were not present during the call and provided an email update.

JSLA noted that market participants are waiting for the Tokyo Term Risk-Free Rate (**TORF**) (note: this is now live for actual trading since 26 April 2021).

The indicative timeline roadmap of the Financial Services Agency (FSA) and Bank of Japan (BOJ) is to cease the issuance of new loans and bonds referencing JPY LIBOR by the end of June 2021, and to significantly reduce the amount of loans and bonds referencing JPY LIBOR by the end of September 2021.

Separately, currently most loan investors expect to implement the waterfall structure starting with TORF as the first fallback and TONA as the secondary option, which differs from the ISDA fallback language.

8. LMA update

The LMA noted that it had updated its RFR exposure draft agreements to recommended forms. The updated agreements also reflect the amendments made by the £RFRWG in March 2021 to the supporting materials of the SONIA loan market conventions. The LMA highlighted that the RFR-based recommended forms were published on 30 March 2021 ahead of the end-Q1 £RFRWG deadline for no new sterling LIBOR loans. The LMA is currently working on also updating its other existing suite of documentation, including Investment Grade and Real Estate Finance documents. The LMA also continues its work on updating its secondary documentation.

The LMA also continues to work on identifying alternatives for a term SOFR. It was highlighted that on 20 April 2021 the ARRC published key principles for such a term SOFR rate, which includes having a limited scope of use. The LMA continues its work in this field in relation to developing markets and the export finance sector.

Regarding the end-Q1 £RFRWG milestone deadlines for no new LIBOR lending, the LMA has not heard much feedback on progress, although feedback that had been received was positive. It was further noted that the LMA is hearing some questions arising on deals as to the interpretation of the £RFRWG end-Q1 Q&A, for example, as to what constitutes an amendment and what constitutes a new RFR loan.

In terms of education efforts, the LMA will be hosting its Developing Markets Conference on 28 April 2021, which will include a session on LIBOR. The LMA highlighted that it is concerned about levels of awareness in most developing markets as well as the readiness to transition away from LIBOR in jurisdictions where awareness has largely been achieved.

9. LSTA update

The LSTA noted that it had published concept documents for its RFR-based multicurrency facilities agreements. The initial publication was released prior to the £RFRWG end-Q1 deadline for no new sterling LIBOR loans. This was a simple RFR-based multicurrency agreement across key LIBOR currencies. The LSTA highlighted that following this publication, members expressed in their feedback that it would be helpful to also have a version of the document which uses US dollar LIBOR for dollar loans (EURIBOR for euro and TIBOR for yen). Following member feedback, a second version was published on 13 April 2021 specifically for market participants who were not ready to use a simple SOFR multicurrency document across all currencies. The LSTA has also updated its US dollar daily simple SOFR documents and is currently working on updating its daily compounded SOFR concept documents. These are particularly relevant as members have recently expressed more demand for documents related to new originations rather than documents with hardwired fallbacks.

The LSTA noted that it had previously highlighted to this Working Party that there is an increase in demand in the US dollar market for credit sensitive SOFR rates. In response, the LSTA has aimed to further examine such rates. This has been done through education efforts. For example, the LSTA has published videos and presentations by ICE Benchmark Administration Limited (**IBA**) to help members understand the rate offering. In addition, the LSTA published in early April a slot-in clause for members to use in their hardwired language. The LSTA reported that this has not been adopted yet, and it is yet to be seen how this will develop.

The LMA noted that it is interesting to see the increasing interest for credit sensitive SOFR rates in the US dollar market and it will be interesting to see whether products needing a forward-looking term rate would also look to such rates in the absence of a SOFR term rate. The LMA noted that the Bloomberg Short-Term Bank Yield Index (**BSBY**) had recently been used in a floating rate note. The LSTA confirmed that it had also noticed this deal and, more generally, the demand for potentially using such credit sensitive rates across various products.

10. SIFMA update

SIFMA noted that, regarding legislation in the US, there are two angles which are being covered. The New York State legislation has now come into effect and the US Federal legislation (in Congress) is undergoing the Federal legislative process.

The New York State legislation on legacy LIBOR loans was passed on 24 March 2021 and subsequently signed by governor Cuomo. SIFMA highlighted that this is good progress, although noting that the legislation only applies to products governed by New York state law.

Regarding Federal legislation, Representative Sherman's Bill underwent the hearing process in the House Committee on Financial Services. SIFMA noted that the legislation was presented as a discussion draft to the various regulators which received overall positive support. Members of congress also largely supported the Bill, with minor modifications requested. SIFMA continues its support for the Bill and is currently pursuing changes to the discussion draft language which underwent a re-write process by the US Federal Reserve.

11. TACT update

TACT noted that, on 24 March 2021, it had hosted its Loan Capital and Capital Markets Committee meeting to address concerns around documentation for consent solicitations. TACT reported that members were undertaking work with relevant parties to ensure all areas of the process were considered (i.e. not just beneficiaries but also retail customers, for example in residential mortgage backed securities where there are many legacy deals to transition). TACT highlighted that trustees in particular have had to make sure that they are managing the multiple work flows, which extend beyond the traditional trustee role on a vanilla bond. In addition, TACT have heard from trustees that their roles are increasingly being leaned on in respect of use of discretion during voting of consent solicitations in situations where parties are on the cusp of passing the vote but just falling under the required consent threshold.

12. UK Finance update

UK Finance continues to lead work on mortgage lending. UK Finance noted that a key challenge in this sector is how to approach credit adjustment spreads for active transition, and the challenges around implementing the guidance in practical situations. As ever conduct issues are one of the main concerns for lenders.

Regarding education, a significant number of organisations have engaged with the outreach efforts by UK Finance and many have advertised this via blogs, social media and newsletters. Roughly 280,000 organisations have had a chance to look through the UK Finance outreach materials.

UK Finance also continues to look at the transition away from LIBOR in legacy contracts, and is considering how to reach out to SMEs.

UK Finance continues to work with members on progressing the potential availability of safe harbour provisions.

13. AOB

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