IBOR TRANSITION: LOANS

The relaxation of the interim milestones in the transition from LIBOR to near risk-free rates (RFRs) in the loans market, in recognition of the challenges faced by businesses in their response to the Covid-19 pandemic, has been helpful. However, the overall assumption remains that firms cannot rely on LIBOR being published after the end of 2021. Further, the sterling RFRWG still recommends that:

- as of October 2020:
    - lenders should be in a position to offer non-LIBOR-linked loan products to their customers;
    - clear contractual arrangements should be included in all new and re-financed LIBOR-referencing loan products to facilitate conversion to RFRs ahead of end-2021, through pre-agreed conversion terms or an agreed process for renegotiation; and
- all new issuance of sterling LIBOR-referencing loan products that expire after the end of 2021 should cease by the end of Q1 2021.

Similar interim milestones have been imposed in other jurisdictions.

Work on RFR-based loans continues at a pace, assisted by the publication of regulatory recommendations for the conventions to be used for adaptation of the overnight, backward-looking RFRs for use in the loans market by means of the use of compounded averages over a particular period. These recommendations and the approaches taken by particular markets currently vary slightly between both jurisdictions and products, which has led to some potential divergence in practice on some issues such as the reference period over which the RFR is observed. It is important that market views are taken into account in the progression of systems and documents for LIBOR transition.

The draft discussion facility agreement documents that have been published to reflect these recommendations are, so far, based on relatively simple investment grade documents, and do not address potential divergence in market practice in the loans and hedging markets. They also do not necessarily cater for markets which require longer notice of interest payment amounts, such as trade finance and emerging markets. So while progress is happening, and swiftly, there is still some way to go.

Nevertheless, the market is developing rapidly, and, subject to operational systems being developed for use by both lenders and for treasury management purposes, there seems to be a real impetus in the market now to meet the regulatory milestones. The next challenge will be to transition all of the legacy transactions to RFRs in the course of the next year.

Please do contact one of the team to discuss any questions you may have about the use of RFRs in the loans market, and its application to your new and legacy transactions.

OUR PEOPLE

WILL NEVIN
PARTNER, LONDON

+44 20 7466 2199
will.nevin@hsf.com

ALEXANDER AITKEN
PARTNER, HONG KONG
+852 21014019
Alexander.Aitken@hsf.com

KRISTEN ROBERTS
PARTNER, LONDON

+44 20 7466 2807
Kristen.Roberts@hsf.com

PATRICK LOWDEN
PARTNER, SYDNEY

+61 2 9225 5647
Patrick.Lowden@hsf.com

EDWARD BARING
PARTNER, BANKING & FINANCE, JOHANNESBURG
+27 10 500 2630
Edward.Baring@hsf.com

EDWARD DOUGHERTY
PARTNER, NEW YORK

+1 917 542 7806
Edward.Dougherty@hsf.com

SIMON CHADNEY
PARTNER, LONDON

+44 20 7466 2993
Simon.Chadney@hsf.com