

From LIBOR to SONIA and what you need to know:

Legal and documentation aspects

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“Legacy” deals – the legal perspective

- Many existing LIBOR-linked products do not cater for the permanent cessation of LIBOR. Some do not contain any fallback rates at all.
- The industry working group, supported by the authorities, recommends that legacy contracts are converted to reference replacements for LIBOR, or amended to incorporate robust fallbacks, where viable, during Q2/3 2021 i.e. in advance of the end of 2021
- Businesses should anticipate engagement with their counterparties with regard to legacy contracts in the near future, if this has not already begun.
- See further: [RFRWG statement on LIBOR transition](#) and [2020-21 priorities and roadmap](#) (July 2020)

Updating “legacy” deals – legal checklist

- Identify a replacement rate for LIBOR legacy contracts
 - SONIA or another rate e.g. Bank of England Bank Rate, fixed rate?
 - How is that replacement rate calculated?
 - What is the spread adjustment between LIBOR and the replacement rate?
 - What are the contractual fallbacks for that rate?
- Convert contract to alternative rate (“active transition”) or update fallback language?
- Identify triggers for the application of fallback rates
 - Recognising cessation and pre-cessation (non-representativeness) trigger events at a minimum
 - Consider including the ability to trigger fallback rates at a pre-agreed earlier date?
- How are the amendments to be implemented?
- Working groups or industry bodies will provide recommendations for using alternative rates and the approach to implementing amendments in many cases

“Tough legacy” contracts

- HM Treasury has [announced](#) its intention to legislate to give the Financial Conduct Authority powers to protect the continuity of certain “tough legacy contracts”
- Legislation should not be viewed as a substitute for negotiated amendments:
*“The Government agrees with the RFRWG’s Tough Legacy Taskforce that **active transition of legacy contracts remains of key importance and provides the best route to certainty for parties to contracts referencing LIBOR.** Parties who rely on regulatory action, enabled by the legislation the Government plans to bring forward, will not have control over the economic terms of that action. Moreover regulatory action may not be able to address all issues or be practicable in all circumstances, for example where a methodology change is not feasible, or would not protect consumers or market integrity. This reinforces the importance of parties who can transition away from LIBOR doing so on terms that they themselves agree with their counterparties.”* ([HM Government written statement](#), 23 June 2020)
- See further: [Sterling RFRWG paper on the identification of Tough Legacy issues](#) (May 2020) and [Financial Conduct Authority statement on planned amendments to the Benchmarks Regulation](#) (June 2020)

New loans business

- [RFRWG roadmap](#) (July 2020)
 - Lenders should be ready to offer non-LIBOR linked products from end Q3 2020
 - No new sterling LIBOR cash products maturing after 2021, from end Q1 2021
- During transitional period from now to end Q1 2021
 - New loans should use alternative rates where possible (e.g. SONIA or fixed rates)
 - Any new LIBOR loans should include “clear contractual arrangements” that facilitate conversion to SONIA or other alternatives ahead of end-2021 through pre-agreed conversion terms or an agreed process for renegotiation
- See further: [RFRWG Q&A prepared by Loan Enablers Task Force in relation to end-Q3 2020 milestones](#) (July 2020)

Key takeaways for businesses

- **Most LIBOR products are likely to require amendment ahead of end 2021**
- Assess and understand your firm's LIBOR exposures
- Engage with banks and other counterparties to understand their approach to LIBOR transition
- Engage with advisers and relevant trade associations to understand the industry approach to transitioning relevant products
- Plan for and identify when the business will be ready to transition away from LIBOR and what steps are needed, by when, to get there in time

Key resources

- [Bank of England Transition to sterling risk-free rates from LIBOR webpage](#)
- [Association of Corporate Treasurers LIBOR hub](#)
- [Loan Market Association LIBOR microsite](#)
- [ISDA Benchmark Reform and Transition from LIBOR webpage](#)
- [ICMA Benchmark Reform and transition to risk-free rates webpage](#)