

Meeting of the IBOR Transformation Working Group

Tuesday 17 June 2020

10:30 am

Via virtual conference

Minutes

Attendees

John Henson	A/g Chair	National Australia Bank Limited
Duncan Marshall	Member	Australia and New Zealand Banking Group
David Ziegler	Member	Macquarie Group Limited
Mark Beeley	Member	Westpac Banking Corporation
Mark Hulme	Alternate	Commonwealth Bank of Australia

Secretariat in attendance

David Love	Policy Executive	AFMA
Murray Regan	Support Executive	AFMA
Natalie Thompson	Support	AFMA

Guests

Chris Kent	Guest	Assistant Governor (Financial Markets) RBA
Andrea Brischetto	Guest	Deputy Head Domestic Markets Department RBA
Nathan Bourne	Guest	Senior Executive Leader, Market Infrastructure ASIC
Alex Orgaz-Barnier	Guest	Senior Manager, Market Infrastructure ASIC
Lara Pendle	Guest	RBA

Apologies

Pieter Bierkens	Chair	Commonwealth Bank of Australia
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1. Meeting Opening

1.1. The meeting opened at 10:03 am. Attendees were noted as above.

2. Discussion with official guests

The meeting was devoted to a discussion with the RBA and ASIC senior officials around current IBOR transition issues.

2.1. *The discussion opened up with questioning around the anticipated July release the ISDA fallback definitions and Protocol and the Bank's expectations with regards to use of the fallback language in cash products.*

The Bank shares the industry understanding that ISDA will finalise fallback provision for credit benchmark rates in July, which would include BBSW and it for the protocol to apply it to ISDA Master Agreements governed derivatives.

There was confirmation of previous statements by the Bank that its users adopt fallback provisions for new securities referencing BBSW, the RBA will expect that these fallback provisions be adopted for new securities to be eligible in the RBA's market operations following the release of the protocol and the 4 month adherence period. It is clear that this should be applying to new instruments. However there is scope to talk about applicability /changes required to existing instruments. In thinking about the timing and nature of this process, RBA are weighing up timing and scope, costs and benefits; anticipate conducting consultation with industry (informally) largely through AFMA and WGs like this and selected issuers.

For existing self-securitised RMBS, these should be amended to include fallback language, RBA would be working with issuers to make that change as this is a bilateral matter. At this stage not sure if same timing will apply, but changes should be made as quickly as feasible.

With regard other marketable securities compliance would be expected by the end of 2021 is the earliest date. The extra time is in order to align with CLF obligations as there is a need to notify 12 months before any changes)

Timing is naturally also dependent on any delays with ISDA's publication or legal/operational constraints

ASIC noted that this matter was in the hands of the Bank but they reiterate broad expectations to implement in a timely fashion.

2.2. Next there was discussion around the fallback to AONIA.

The Bank is responsible for the Cash Rate and spoke to the current situation where because of the amount of liquidity in the system banks have had little need to transact in the overnight cash market. As a result, in recent days because of insufficient Cash Market Transactions the published Cash Rate used the last Cash Rate published. When this is the case over several days the decision arises around the use of Expert Judgement. This was the case the day before when Expert Judgement was used. The Bank updated its Cash Rate procedures on 20 March reflecting a period of thinking around fallback alternatives if there were insufficient transactions which became timely when Bank recognised that measure was likely to see fall in cash market activity.

The led onto a discussion about the use of the term 'AONIA' which has the market practice meaning as being the Cash Rate. Market conventions and ISDA definitions imply that AONIA is used on a NSW / Sydney Business Days convention which has to less days than the CR's RITs calendar. On the industry side it was noted that more thought needs to be given more formally tying in the definition of AONIA to the Cash Rate as published by the Bank as the source of the acronym is the Australian overnight index average which might infer a rate based on cash market transactions when the CR might as in recent days be the outcome of an alternative methodology. Also further thought has to be given to the different day counts. AFMA said that these are issues that should be referred to the AFMA IBOR Market Responses Group.

2.3. The recent ASIC letter to industry and the response to the 'Dear CEO' letter

With respect to "Dear CEO" letter sent out by ASIC in April, ASIC have also reached out to top 100 companies by market cap to increase awareness on that side of the ledger - a lot of movement in industry since that process was undertaken;

Feedback on the conduct risk letter in reply to was discussed. ASIC is thinking about amending it and publishing it more broadly in relation to industry. It was observed that the letter received a

close examination through this Group and AFMA compliance committees. Key point of note from industry fairness to be looked at time that parties come to an agreement about renegotiating transaction and it is not open to counterparty to come back six months later with the benefit of hindsight.

Reminder that entities should select an appropriate fallback. Some customers only exposed to BBSW - expectation around how people should be framing their thinking on considering how to manage that; i.e. front book and back book;

2.4. The ARRC representations with regard to a legislative safe harbour

On 6 March ARRC released a proposal to minimise legal uncertainty for USD Dollar LIBOR contracts. The Group aired its thinking with regard to whether to support the ARRC efforts to obtain a legislative safe harbour.

The question was posed to the Group on what this meant from an Australian perspective. Is it about US/NY law to cover US dollar LIBOR transactions? Most transactions would be subject to English or New York law. It is up to Australian industry to determine the materiality of the legal risk in an Australian context and how the local courts would treat matters. ASIC is open minded on the issue if industry were to make a case but their powers under benchmark regulation do not extend to dealing with legal risk and there would have to be legislation, which is a long, difficult process.

2.5. A general discussion of challenges to LIBOR transition

ASIC noted differences in stages of UK and US transition, Australia's preparations were thought to be behind the UK which is well advanced but ahead of the US. More support for SOFR is needed. There is a need for building further awareness and more education on the need to transition so there is information symmetry between parties.

With regard to the timetable, the fragility of LIBOR has been demonstrated by the current situation and highlights why it is unsustainable. Banks are more likely to abandon contributions when no longer compelled. The requests for extension of time needs to take account of this reality. The Alternative Reference Rates, while they still have a distance to go have performed adequately the stressed environment and are at least as good as LIBOR. The authorities may get together and look at state of markets mid next year and look at the systemic and operational risk at end of 2021. Australia needs to be gearing up to move with US in first half of 2021 and need to make sure preparations are in order for changing contracts etc.

Comments were made on the work of the ASF with regard to securitisation, which has been awaiting on the release of the ISDA fallback language.

3. Review of previous minutes

1.1. The previous minutes were accepted.

2. Close of Meeting

The meeting closed at 11:53 am.