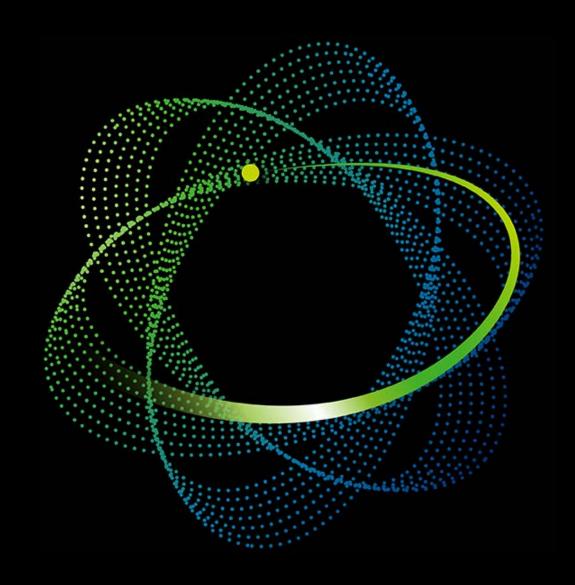
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Transfer Pricing News

Transfer Pricing Considerations in the transition away from the LIBOR Rate for intragroup financing transactions



In 2017, the Financial Conduct Authority -FCAannounced that due to the lack of significant data for keeping LIBOR, this benchmark rate would be discontinued at the end of 2021, and FCA would no longer obligate banks to make LIBOR submissions.

The transition away from the LIBOR rate will not only have an impact on financial markets, but also may have an impact on financial transactions between related companies, which often used LIBOR as a variable interest component.

As companies start adapting their financial

transaction agreements with independent third parties to transition away from LIBOR, they must also consider the potential impact that this transition could have on financial transactions between related companies and on their compliance with and verification of the arm's length principle.

Replacing the LIBOR rate will require companies to evaluate the current price of the variable interest rate in the financial transactions with related companies. It is important to mention that situations may arise in which financial transactions between related companies are based on LIBOR rates that have already been eliminated, and thus companies must consider other alternatives, such as base rates, to replace LIBOR in the future. These alternative benchmarks may require the application of an arm's length margin in financial transactions between related companies, with the purpose of ensuring that neither of the parties to the transaction is at a disadvantage.

Following the announcement of the cessation of LIBOR, alternative risk-free rates (RFRs) have been introduced for <u>different currencies</u>, such as:



- 1. Secured Overnight Financing Rate (SOFR) for the US dollar
- 2. Sterling Overnight Index Average (SONIA) for sterling
- 3. Tokyo Overnight Average Rate (TONAR) for yen
- 4. Swiss Average Rate Overnight (SARON) for the Swiss franc
- Euro short-term rate (€STR) for the Euro (in replacement of the EONIA). EURIBOR also remains in effect.

The alternative RFRs are mainly published as overnight rates. This is a significant change compared to the LIBOR rates, which were published for different maturities (for example, monthly, quarterly, etc.). Keeping in mind the different terms of the alternative RFRs compared to the LIBOR rate, it is recommended to perform an analysis in order to assess any impact on transfer pricing matters.

It is important that companies that perform financial transactions with related companies ensure that the changes made to alternative RFRs are supported by contractual clauses in the new and existing agreements, mainly in order to have proper support in the event of a future tax audit.

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