



Transfer Pricing News

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



In 2017, the Financial Conduct Authority -FCA- announced 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 different currencies, 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
5. 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.

Our experts:

Deloitte offers a range of integrated tax and legal services. Our teams combine technical knowledge, experience and innovation, which allow us to help our clients meet their objectives at the local and global levels.



Mario Coyoy

Centralamerica Transfer
Pricing Leader Partner
mcoyoy@deloitte.com



Walter Roberto Martínez

Manager
Transfer Pricing
wrmartinez@deloitte.com

Deloitte.

Deloitte refers to Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, its network of member firms and their related entities, each of which is a legally separate and independent entity. Please see www.deloitte.com to learn more about our global network of member firms.

Deloitte provides audit & assurance, consulting, financial advisory, risk advisory and tax & legal services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's more than 330,000 professionals are committed to making an impact that matters.

As used in this document, Deloitte Guatemala, S.A., which have the exclusive legal right to engage in, and limit its business to, providing auditing, consulting, tax consultancy, legal, risk and financial advisory respectively, and other professional services, under the name "Deloitte".

This presentation contains general information only and Deloitte is not, by means of this document, rendering advice or accounting, commercial, financial, investment, legal, tax or other services.

This presentation is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. No representation, warranty or promise (either explicit or implicit) is provided regarding the accuracy or completeness of the information in this communication and Deloitte will not be responsible for any loss suffered by anyone who relies on this presentation.