



Deloitteⁱ US LIBOR Transition Newsletter

A summary of US regulatory and market updates related to the transition from LIBOR

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Executive Summary

On November 16, 2021, the Financial Conduct Authority (FCA) confirmed that legacy contracts that have not been remediated on or before year-end 2021 will be allowed temporary use of Synthetic Sterling (GBP) and Japanese Yen (JPY) London Interbank Offered Rate (LIBOR). As implied, this determination does not allow for use of the synthetic rates in any new contracts and although many of the impacted contracts have transitioned, there is a risk to both markets and consumers that many financial product's interest payments may not be calculated for contracts that have not yet switched. To help alleviate this potential risk, the FCA is compelling the publication of the 1-, 3- and 6-month LIBOR rates for GBP and JPY on a synthetic basis until December 31, 2022. On September 29, 2021 the FCA announced its requirements for fair and transparent way to calculate the synthetic LIBOR rates by approximating what LIBOR would have been in the future. The FCA has also noted that although five settings of USD LIBOR will be published until the end of June 2023, most new contracts are not allowed to leverage USD LIBOR for contracts originated after December 31, 2021. The FCA has support on the ending of new USD LIBOR contracts by regulators from the United States and around the world.

On December 3, 2021, the Alternative Reference Rates Committee (ARRC) as the "Relevant Recommending Body" under New York and Alabama State LIBOR Legislation (State LIBOR Legislation), released statutory fallback recommendations for the 1-week and 2-month USD LIBOR contracts as those LIBOR tenors will no longer be published after year-end 2021. The Secured Overnight Financing Rate (SOFR) is the ARRC's recommended alternative to USD LIBOR and conversely the recommended rate proposed in the state legislation. The 1-week and 2-month USD tenors are uncommon compared to the other five USD tenor settings (Overnight (ON), 1-, 3-, 6- and 12-month) that will continue to be published until the end of June 2023. ARRC Chairman, Tom Wipf noted "The end is upon us, with just one month until no new LIBOR and the cessation of these two USD LIBOR tenors. LIBOR's endgame has been clear for a long time, and today's recommendations are important for the legacy contracts that rely on those tenors. With all of the key tools laid out, it is critical that market participants act now to ensure a smooth transition."

On December 7, 2021, the Consumer Financial Protection Bureau (CFPB) issued amendments to certain provisions in "Regulation Z", which implements the Truth in Lending Act (TILA), to facilitate LIBOR transition for open-end and closed-end credit. For closed-end credit, the amended rule identified SOFR-based spread-adjusted averages recommended by the ARRC as a "comparable" index to be used to replace 1M, 3M and 6M USD LIBOR. This would allow such products to replace LIBOR without triggering the refinancing requirements that would have otherwise been triggered under the original Regulation Z. For open-end products, the amendments included LIBOR-specific provisions and credit card rate re-evaluation requirements and proposed additional triggers for change-in-terms notices. Additionally, for open-end products, the amendments carved out a separate section for LIBOR-specific index change provisions for Home Equity Lines of Credit (HELOC's) loans. These amendments take effect on April 1, 2022; however, mandatory compliance is required on October 1, 2022.



Our Perspective

FCA Confirms Synthetic LIBOR Rate Rules

The FCA confirmation of synthetic LIBOR rate rules as it relates to the 1-, 3- and 6-month GBP and JPY LIBOR settings help provide a clear path for legacy contracts that might not be remediated before the end of 2021. This move by the FCA is to help avoid disruption to legacy contracts throughout 2022 that reference these three LIBOR settings for the two currencies. While the FCA is providing a framework for these LIBOR settings, market participants should continue with active LIBOR transition where possible in order to retain both economic and functional control over their contracts.

ARRC 1-Week and 2-Month USD LIBOR Fallback Recommendations

The ARRC recommendation for the cessation of 1-week and 2-month USD LIBOR tenors is aligned with their overall SOFR recommendation as the alternative for USD LIBOR. Specific SOFR rates are given in the ARRC's full statement depending on the product category, for example asset-backed securities might use 30-day average SOFR whereas a business loan may leverage daily simple SOFR in arrears. This recommendation from ARRC is yet another tool to help market participants execute a smooth transition away from LIBOR.

CFPB's Final Rule for Facilitating LIBOR Transition

The amendments published by CFPB provide the required clarity for consumer financial products, including adjustable-rate mortgages, credit cards, HELOC's, reverse mortgages, and student loans. By providing examples of a comparable replacement rates, and including technical corrections for replacing LIBOR, the amendments encourage relying on alternative reference rates such as Secured Overnight Financing Rate (SOFR). The article provides flexibility to covered parties to choose a comparable rate that meets their specific requirements by defining the standards that determine a good replacement rate. However, as the article does make any references to 12M USD LIBOR, the covered parties will expect additional clarity from CFPB once they collect the required information for a comparable SOFR based replacement.



Regulatory Updates

Summary of Alternative Reference Rate Committee (ARRC) Office Hours Q&A with David Bowman (The Federal Reserve Bank (FRB))

This section represents a summary of the ARRC office hours Q&A with David Bowman from November 1, 2021 until November 30, 2021. Weekly office hour information can be found [here](#). The information below does not represent the view of the Federal Reserve but represents the personal views of David Bowman outside of his official capacity. Below are some of the specific topics discussed:

Guidance Regarding Evergreen Products with No Stated Maturity

- The spirit of the guidance is about an existing contractual agreement. This would be more akin to an uncommitted facility and would need an examiner to review.

Safe Harbor for Parties Agreeing on SOFR

- If two parties came to an agreement to use SOFR, They probably would not be granted Safe Harbor because it was through mutual agreement so Safe Harbor wouldn't apply.

Cross-Currency Swap Convention

- The convention is a lookback with an observation shift similar to other swaps that are subject to the International Swaps and Derivatives Association (ISDA) fallbacks.

Interest Rate Swaps Fallbacks

- Under the NY legislation, for clients that did not enter into the protocol the contract would go to the ARRC recommendation, but the ARRC recommendation for derivatives is to fallback to the ISDA recommendation.

ARRC Recommended Fallbacks

- Regarding the flexibility between simply daily average SOFR vs. Term SOFR as the first step in the fallback the legislation will allow for a single rate and single spread adjustment unless the contract has already specified a safe harbor. The legislation will allow for a safe harbor if the contract specifies a determining party that has the right to name a new rate and under the terms of the contract will allow the determining party to choose an ARRC recommended rate.

Legislation Enforcement Post 2021

- The ARRC guidance has carve outs that related to legacy positions that may be traded in the secondary market after December 31, 2021. The Supervisory Guidance is to not enter into new LIBOR contracts after December 31, 2021. It does not give any restriction or guidance regarding purchasing or trading legacy agreements. The guidance does not recognize non-banks that wish to create Libor contracts post December 31, 2021.

Daily Simple SOFR

- The ARRC fallback language confirms the second fallback is daily simple SOFR in arrears.

Rate/Loan Renegotiation

- An amendment to an existing contract that increased the overall amount of Libor exposure or extended the maturity of Libor exposure should be considered a new Libor contract.

Regulatory Highlights

- The FCA confirmed that legacy contracts that have not been remediated on or before year-end 2021 will be allowed temporary use of synthetic sterling and Japanese yen LIBOR rates. The statement is available [here](#).
- The ARRC released statutory fallback recommendations for the 1-week and 2-month USD LIBOR contracts as those LIBOR tenors will no longer be published after year-end 2021. The statement is available [here](#).
- On December 7, 2021, the CFPB issued a final rule (2021 LIBOR Transition Final Rule or LIBOR Transition Rule) amending certain provisions in regulation Z, to address the sunset of LIBOR. The amendments are available [here](#).

ARRC / FRB Updates

- The ARRC published its October-November newsletter. The newsletter is available [here](#).
- The ARRC published a LIBOR Adjustable-Rate Mortgages (ARMs) Transition resource guide. The report is available [here](#).
- The FRB updated their Frequently Asked Questions (FAQs) for the LIBOR transition (SR 21-12). The FAQs are available [here](#).

ISDA Updates

- ISDA published Supplement 88 to the 2006 ISDA Definitions, the addition of fallbacks to "USD-ISDA-Swap Rate", which will incorporate the new triggers and fallbacks for the USD LIBOR Intercontinental Exchange (ICE) Swap Rate and/or JPY LIBOR Tokyo Swap Rate. The supplement is available [here](#).
- ISDA published a Form of Amendment to enable parties to amend one or more existing confirmations to incorporate fallbacks for provisions in the 2006 ISDA Definitions that refer to or relate to the GBP LIBOR ICE Swap Rate (Supplement 82). The form of amendment is available [here](#) and the Supplement 82 is available [here](#).
- ISDA updated their Swaptions Guide on outcomes with and without supplement 70. The matrix is available [here](#).
- ISDA published the ISDA SwapsInfo Q3 report. The report is available [here](#).
- ISDA published the 'Transition to RFR Review' for Q3. The report is available [here](#).
- ISDA-Clarus published the Risk Free Rates (RFR) adoption indicator report for October 2021. The report is available [here](#).

Chicago Mercantile Exchange (CME)/ London Clearinghouse (LCH) Updates

- Risk.net published an article "LCH to clear swaps linked to embattled Bloomberg Short Term Bank Yield Index (BSBY) rate". The article is available [here](#).
- Risk.net published an article "LCH to clear BSBY swap clearing from November 29". The article is available [here](#).
- Risk.net published an article "LCH eyes Singapore Swap Offer Rate (SOR) swap conversion". The article is available [here](#).
- CME published the Rates Recap for November. The report is available [here](#).

Other News/ Useful Reading

- ICE Benchmark Administration (IBA) launched the USD SOFR ICE swap rate for use as a benchmark. The statement is available [here](#).
- Commodity Futures Trading Commission (CFTC) issued a request for information and comment on swap clearing requirement to address IBOR transition. The press release is available [here](#).
- "Early movers get better pricing on SOFR loans". The article is available [here](#).
- "Expansion of 'SOFR First' to Eurodollars faces resistance". The article is available [here](#).
- "LIBOR transition vexes Collateralized Loan Obligations (CLO's) market". The article is available [here](#).
- "US swaptions slowly ditch Libor as 'SOFR First' bites". The article is available [here](#).
- "Term SOFR loans unite on spread amid 'fair' price debate". The article is available [here](#).
- "LIBOR basis swaps jump amid rates uncertainty". The article is available [here](#).
- "Borrower Beware: The end of LIBOR can be expensive". The article is available [here](#).
- "US loan market begins shift away from tarnished LIBOR benchmark". The article is available [here](#).
- "Congress coalescing around need for LIBOR replacement bill". The article is available [here](#).
- "Why Wall Street should watch special U.S. repo market". The article is available [here](#).
- "LIBOR transition does not pose material risk to CLOs". The article is available [here](#).
- "Loan markets call for clarity on scope of US LIBOR ban". The article is available [here](#).
- "Insurers face challenges in LIBOR transition". The article is available [here](#).



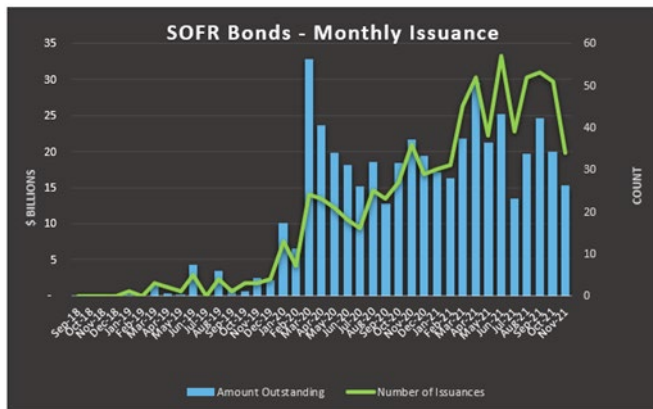
Market Updates

Decrease in Debt Issuance Referenced to SOFR

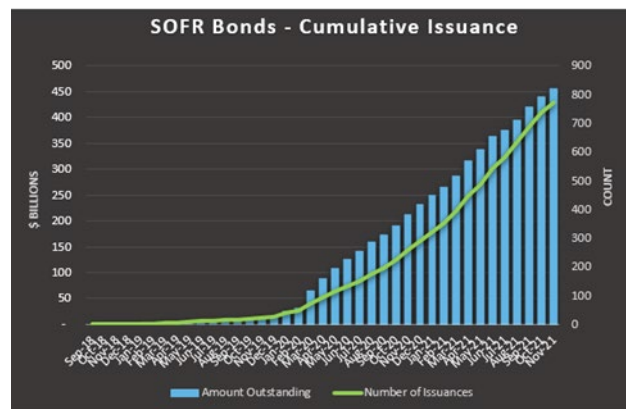
The issuance of SOFR referenced debt decreased in November 2021 compared to issuance in October 2021. The issuance size was \$15.2 billion in November 2021, which decreased from \$19.9 billion in October 2021. The graphs below represent data through November 2021.

The cumulative issue size of SOFR bonds outstanding (this excludes matured bonds) is currently \$455.86 billion with 799 bonds through December 15, 2021. There were 34 new issuances in November 2021 compared to 51 in October 2021 and 53 in September 2021.

In November 2021, federal agencies issued 12 SOFR referenced floating rate notes (FRN)'s worth \$4.3 billion. There were 22 issuances from other institutions which contributed \$10.9 billion to the outstanding amount of SOFR referenced debt.



Source: Reuters, compiled by Deloitte
*Data as of November 30, 2021

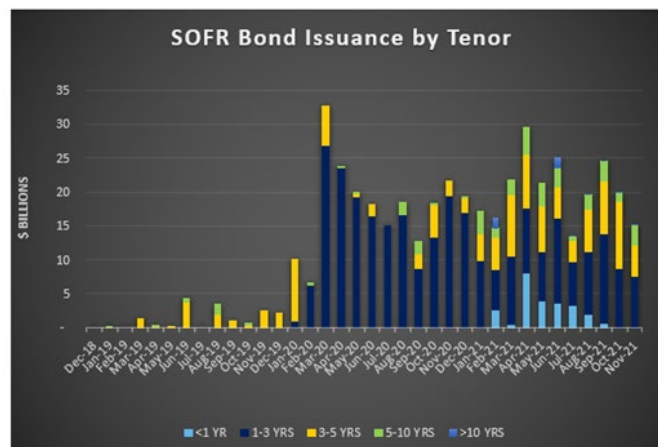


Source: Reuters, compiled by Deloitte
*Data as of November 30, 2021

Decrease in Longer Dated Debt Issuance (maturity ≥ 5 years) Referenced to SOFR

SOFR debt issuances with a maturity greater than or equal to five years decreased in November 2021 compared to October 2021. During November 2021, there were 6 bonds issued which have a maturity between five and 10 years, compared to 12 issuances in October 2021. There were 3 issuances during November 2021 that had a maturity greater than or equal to 10 years, as compared to 1 such issuance with a maturity greater than or equal to 10 years for October 2021.

There were 118 issuances of SOFR bonds outstanding worth \$36.8 billion, with a maturity greater than or equal to five years, through December 15, 2021 including 17 issuances worth \$3.56 billion with a term greater than or equal to 10 years.

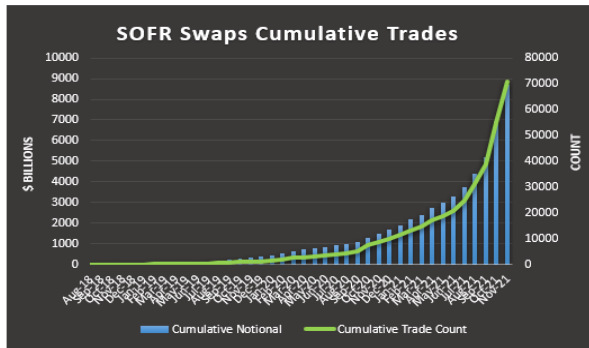


Source: Reuters, compiled by Deloitte
*Data as of November 30, 2021

Cumulative SOFR Interest Rate Derivatives

SOFR Swaps

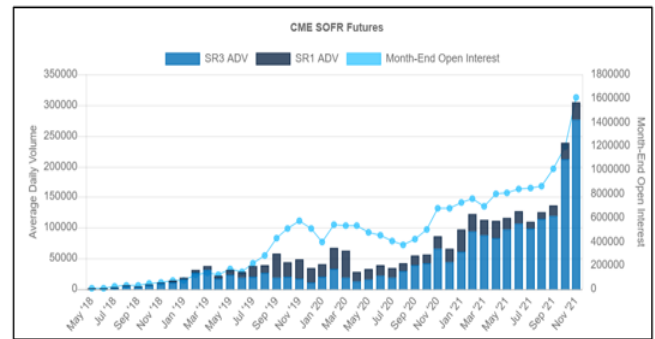
- The cumulative outstanding notional amount for SOFR based interest rate and basis swaps totaled \$8,703.1 billion through November 30, 2021.
- For the month of November 2021, the notional volume of SOFR-based interest rate and basis swaps totaled \$1,737.8 billion compared to \$1,747.4 billion in October 2021 and \$833.3 billion in September 2021.



Source: <http://swapsinfo.org/>, compiled by Deloitte
*Data as of November 30, 2021

SOFR Futures

- According to data available on CME, for November 2021, SOFR futures (including both 1-month and 3-month futures) average daily volume reached ~304K contracts/ day. The data is available [here](#).
- The month-end open interest for SOFR 1-month and 3-month futures as of November 2021 was ~1.6M contracts.



Source: CME Group
*Data as of November 30, 2021

Global IBOR Activity

The market activity in SONIA, Swiss Average Rate Overnight (SARON), Tokyo Overnight Average Rate (TONAR) and Euro Short-Term Rate (€STR) based debt issuances and swaps have continued to increase. The table below represents the cumulative bond issuances (does not exclude matured bonds) and the cumulative notional of swaps outstanding through November 30, 2021.

Alternative Reference Rate	Swaps Cumulative notional amount (US \$ Billions)	Bonds Cumulative issuance amount (US \$ Billions)
SONIA	51,441.7	140.8
SARON	260.9	NA
TONAR	1,363.1	NA
€STR	2,131.7	5.5

Source: Reuters, <http://swapsinfo.org/>, compiled by Deloitte
Data as of November 30, 2021



Global Highlights

United Kingdom

- The Financial Stability Board (FSB) issued a statement to support preparations for LIBOR cessation. The article is available [here](#).
- "European Union (EU) says UK LIBOR legacy fix not compatible with Bloc's law". The article is available [here](#).
- "Synthetic LIBOR confirmation a 'welcome relief'". The article is available [here](#).

European Union

- European Securities and Markets Authority (ESMA) published the letter issued by the Chairman of the Euro Risk Free Rates Working Group to the European Commission. The correspondence is available [here](#).
- ESMA proposed changes to the scope of the clearing and derivative trading obligations for the benchmark transition. The report is available [here](#).
- ESMA amends derivatives and clearing trading obligations to aid LIBOR transition. The article is available [here](#).
- "New benchmark rates to replace Swiss LIBOR and EONIA next year". The article is available [here](#).

Asia

- The Association of Banks in Singapore (ABS) published the SOR compressions/ conversion cycle forecast. The report is available [here](#).
- Update to the SORA market compendium: Transition from SOR to Singapore Overnight Rate Average (SORA). The report is available [here](#).
- "Hong Kong banks face deadlines to migrate USD 205B of contracts tied to scandal-ridden LIBOR with no alternative rates in place". The article is available [here](#).
- "SOR liquidity drought complicates SGD benchmark shift". The article is available [here](#).
- "Market Agreed Coupon (MAC) Rates for Japanese Yen TONAR now available". The rates are available [here](#).

Contact Us

For further details on how we can help firms experience an effective transition away from LIBOR, please visit our website:

[**DELOITTE LIBOR TRANSITION WEBSITE**](#)

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