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Autorité fédérale de surveillance des marchés financiers FINMA
Autorità federale di vigilanza sui mercati finanziari FINMA
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FINMA Guidance 03/2021

LIBOR transition: progress and best practices

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1 Introduction

In 2017, the UK's Financial Conduct Authority (FCA) announced that it would no longer support LIBOR after 2021[1]. In its Guidance 10/2020[2], FINMA communicated a recommended roadmap for the supervised institutions for the period up to the expected cessation at end-2021. On 5 March 2021, the ICE Benchmark Administration (IBA) and the FCA published a statement announcing the definitive cessation of LIBOR at end-2021 and clarifying the details for the transition from LIBOR in each of its five currencies:

For new business transactions, LIBOR will cease to be published at end-2021 in all five LIBOR currencies (CHF, EUR, GBP, JPY and USD) and for all tenors.

For existing LIBOR contracts (legacy contracts), not all tenors in all currencies will cease to be published completely at end-2021:

Currency	Tenors	Cessation date or interim solution
CHF, EUR	All	Cessation at year-end 2021
GBP, JPY	O/N, 1W, 2M, 12M	Cessation at year-end 2021
	1M, 3M, 6M	Synthetic LIBOR published by the FCA after 2021 for a limited time
USD	1W, 2M	Cessation at year-end 2021
	O/N, 1M, 3M, 6M, 12M	Cessation at end-June 2023 (poss. synthetic LIBOR for 3M, 6M, 12M)

Source: FCA, 31 March 2021 ("O/N" stands for "overnight", "W" for "week", and "M" for "month")

Financial market participants were provided with a number of tools for managing the LIBOR transition. These include, in particular, the recommendations of various national working groups[3], the *ISDA IBOR Fallbacks Protocol*[4], the *Benchmark Amendment Agreement* published by the SBA for OTC derivative instruments[5] and FINMA Guidance 01/2020[6] and

[1] https://www.fca.org.uk/news/speeches/the-future-of-libor

[2] https://www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmitteilungen/20201127-finma-aufsichtsmitteilung-10-2020.pdf?la=en

[3] Switzerland: National Working Group on Swiss Franc Reference Rates; EU: Working Group on Euro Risk-Free Rates; United Kingdom: Working Group on Sterling Risk-Free Reference Rates; USA: Alternative Reference Rates Committee; Japan: Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks

[4] https://www.isda.org/protocol/isda-2020-ibor-fallbacks-protocol/

[5] https://www.swissbanking.ch/en/news-and-positions/news/ibor-transition-documentation-for-swiss-master-agreement-for-over-the-counter-otc-derivatives

[6] https://www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmitteilungen/20200320-finma-aufsichtsmitteilung-01-2020.pdf?la=en

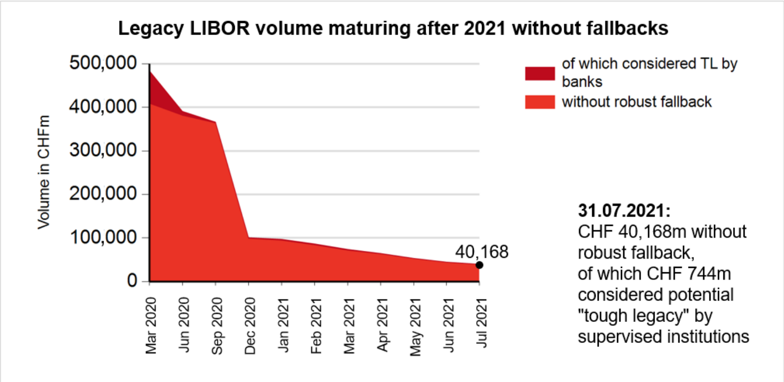
02/2021[7] on derivatives trading. The ISDA provided information on fallback clauses for non-linear derivatives in July 2021[8].

2 Progress of the transition and recommendations

The milestones of the roadmap set out in Guidance 10/2021 for the year 2021 remain relevant for all supervised institutions with outstanding LIBOR-linked contracts. This year, to allow it to carry out risk-based supervision, FINMA required the top 20 banks and securities firms most impacted by the LIBOR transition to complete a monthly self-assessment. The data submitted up to 31 July 2021 show that the majority of supervised institutions have adhered to the milestones of the roadmap up to now. The state of progress for each currency is summarised below:

CHF and EUR LIBOR

Since the beginning of 2020, the legacy contracts without robust fallback clauses have been reduced by almost 90%. Legacy contracts with a volume of around CHF 40 billion without robust fallback clauses still remain, the majority of those in CHF:



Source: Self-assessments carried out by 20 banks and securities firms

There is a particular need for action with regard to syndicated loans. Here, the number of legacy contracts without robust fallback clauses has only been reduced by 28% since the start of 2021. The National Working Group on Swiss Franc Reference Rates (NWG) published the *Rate Switch*

[7] https://www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/4dokumentation/finma-aufsichtsmitteilungen/20210705-finma-aufsichtsmitteilung_02_2021.pdf?la=en

[8] https://www.isda.org/2021/07/23/isda-announces-results-of-consultation-on-fallbacks-for-gbp-libor-ice-swap-rate-and-usd-libor-ice-swap-rate/

Amendment Agreement[9] in February 2021 and recommended in July 2021 that all syndicate lead institutions approach the syndicate participants as soon as possible in order to convert the syndicated loans. By the same token, all syndicate participants and borrowers were called on to proactively contact the syndicate leads.

FINMA supports the recommendations of the NWG concerning syndicated loans and expects them to be implemented as a matter of urgency.

GBP and JPY LIBOR

As regards the progress in transitioning from GBP and JPY LIBOR, the picture in Switzerland is similar to that for CHF and EUR LIBOR. The volume of such contracts has been reduced by around 90% to around CHF 49 billion since the beginning of last year.

The FCA will publish a synthetic LIBOR for a limited time after 2021 for the most widely-used tenors of GBP and JPY LIBOR. However, this will only apply to contracts that are impossible or impractical to modify on time ("tough legacy"). The FCA is expected to provide more detailed information towards the end of this year.

FINMA therefore also expects the supervised institutions to accord a high priority to amending their GBP and JPY LIBOR legacy contracts before year-end 2021. The application of the synthetic LIBOR after 2021 is subject to the specifications of the FCA.

USD LIBOR

As expected, the transition from USD LIBOR is the least advanced in Switzerland. The volume of legacy contracts is still almost nine times higher than the volume in the other four currencies combined.

The global strategy is to stop issuing new USD LIBOR contracts by end-2021 at the latest, although a few exceptions will continue to apply. Furthermore, the cessation of the most widely-used tenors was postponed until mid-2023. Most of the legacy contracts will have matured by then, thereby simplifying the work involved in transitioning. For this strategy to be successful, it is essential that new business transactions are stopped consistently.

[9] https://www.snb.ch/n/mmr/reference/amendment_agreement/source/amendment_agreement.n.DOCX

FINMA reminds the supervised institutions that the milestone “new contracts in general based on ARR[10]” from July 2021 also applies to USD. This means that there should be no more new contracts linked to USD LIBOR apart from strictly limited, justified and documented exceptions.

Even if the replacement of USD LIBOR in legacy contracts that mature after 30 June 2023 is still possible after end-2021, the supervised institutions should accord priority to an early replacement of USD LIBOR in these contracts.

3 Best practices for a successful transition

As guidelines for those supervised institutions that are still facing challenges, FINMA sets out below approaches that have proven to be particularly beneficial in preparing for a successful transition from LIBOR:

- Central project management with rigorous involvement and responsibility of the divisions;
- Approved and detailed plans with regular reporting for winding down legacy contracts without robust fallback clauses;
- Actively making contact with all counterparties of LIBOR contracts (in particular, not waiting for others to take the initiative) to amend the contracts and, where there is no active restructuring of the contracts to ARR, legal assessment of the robustness of the fallback clauses in the event of the permanent cessation of LIBOR;
- Detailed inventory of contracts updated with the status of the negotiations with the counterparties;
- Mandatory training of all client advisers on the LIBOR transition and new products in ARR;
- Approved guidelines for stopping LIBOR-based new business transactions and implementing corresponding pre-trade preventive checks.

FINMA is calling on all financial market participants to continue to press ahead with their preparations for transitioning from LIBOR as a matter of the highest priority. It will continue to closely monitor the development of the contract volume linked to LIBOR. It will consider disregard for the

[10] Alternative reference rates

cessation of LIBOR-based new business transactions (except in strictly limited, justified and documented exceptional cases) in the second half of 2021 as a violation of the supervisory requirements with regard to adequate risk management. Where necessary, FINMA will take institution-specific measures to mitigate the risks of inadequate preparation for the LIBOR transition.

4 Outlook for 2022–2023

FINMA will continue to monitor the LIBOR transition on a risk basis after 2021 and will remain in close contact with other authorities to this end. Even if the majority of supervised institutions have adhered to the milestones satisfactorily up to now, further “tough legacy” contracts should be expected to materialise after end-2021.

In particular, FINMA will continue to monitor the further winding down of the “tough legacy” volume and potential legal risks for the most impacted banks and securities firms.

It will also continue to monitor adherence to the relevant milestones set out in Guidance 10/2020 after 2021. In particular, this means not entering into any new business transactions linked to those LIBOR rates for which new business transactions would still be possible from a technical point of view, but which should be avoided from a risk management perspective and observing the regulatory guidelines and expectations of various supervisory authorities (FINMA, FCA/PRA, FRB, etc.) and international bodies (BSBS, FSB). An overview is provided below:

<table>
<tr><th>Currency</th><th>Tenors</th><th>Tough legacy</th><th>New business transactions</th></tr>
<tr><td>CHF, EUR</td><td>All</td><td rowspan="3">Monitoring of materialised “tough legacy” contracts (winding down and dealing with materialised legal risks)</td><td rowspan="3">No new business transactions linked to LIBOR (largely impossible from a technical point of view)</td></tr>
<tr><td>GBP, JPY</td><td>O/N, 1W, 2M, 12M</td></tr>
<tr><td>USD</td><td>1W, 2M</td></tr>
<tr><td>GBP, JPY</td><td>1M, 3M, 6M</td><td>Monitoring of the winding down of materialised “tough legacy” contracts while synthetic LIBOR is applied</td><td>No new business transactions linked to LIBOR (technically possible, but will be equated with insufficient risk management)</td></tr>
<tr><td>USD</td><td>O/N, 1M, 3M, 6M, 12M</td><td>Monitoring of the winding down of remaining legacy contracts by end-June 2023</td><td>No new business transactions linked to LIBOR (technically possible, but will be equated with insufficient risk management)</td></tr>
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