ASIFMA IBOR Transition Readiness Survey Results and Action Plan

JANUARY 2021

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EXECUTIVE SUMMARY

Much has been said about the London Interbank Offered Rate ("**LIBOR**"), and its position of significance in the financial markets. Dubbed the "world's most important number", the use of LIBOR as a reference rate is prevalent across product classes, as well as across jurisdictions. The transition away from LIBOR is hence bound to present numerous unique and difficult challenges for regulators and market participants alike.

In the Asia-Pacific region, the Asia Securities Industry and Financial Markets Association ("**ASIFMA**") has, in August 2020, conducted a survey amongst its members to identify some key issues that require attention before end-2021.

In general, four main themes have emerged from survey results with regards to transition away from LIBOR as well as various local Interbank Offered Rates ("**IBOR**"). These are:

(a) Lack of standardisation, harmonisation and consensus between different jurisdictions and asset classes as an area of concern;

(b) Transition issues for legacy contracts;

(c) Litigation, regulatory and conduct risk in connection with IBOR transition; and

(d) Transition issues in connection with local benchmarks.

Based on the feedback received, action focus areas have been identified in Part 3 of the paper. This paper is primarily intended for regulators across APAC, fellow trade associations, as well as market participants in general. The action focus areas that we have identified have hence been clearly categorised in terms of intended engagement with each target demographic.

As we head into the tail-end of the year 2020, we are also entering the final sprint for LIBOR transition. We hope that our identified action focus areas can serve to facilitate a more targeted approach by industry bodies in tackling the most pressing issues of LIBOR transition in an efficient and effective manner.

We thank all members who have participated in the survey for your responses. Feedback received highlights that introducing a set of guidance regarding supervisory intent across all affected issues will be helpful, especially for legal, regulatory and documentation issues. Feedback for the creation of certain sets of industry guidelines and educational material is also generally positive. This paper is the result of weeks of collaboration between ASIFMA, ASIFMA's members, as well as Ashurst LLP and its affiliates.

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1. **INTRODUCTION**

ASIFMA conducted a survey among its members in August 2020 (the "**Survey**"). The survey was aimed at identifying external frictions of concern that may present potential challenges to IBOR readiness in Asia, with the aim of developing an advocacy plan to tackle the identified challenges.

Together with Ashurst LLP, we set out below in Part 2 of the paper an overview of key trends that have emerged from the survey. We then set out proposed actionable items for key areas of concern in Part 3.

2. **ISSUES**

In general, four main themes have emerged as regards this aspect of our survey.

2.1 **Lack of harmonisation.** Survey participants identified areas of lack of standardisation and consensus between different jurisdictions, as well as across different asset classes as an area of concern. This is especially for linked products, non-ISDA contracts, non-linear products and local rates that are linked to LIBOR and tough legacy contracts.

2.2 **Transition issues for legacy contracts.** Survey participants noted that there are certain roadblocks to transitioning legacy contracts. These include lack of liquidity for new Risk Free Rate ("**RFR**") products, lack of customer awareness and continued demand for IBOR-referencing products. These are compounded by time pressure and resourcing issues faced by market participants particularly due to COVID-19.

2.3 **Litigation and conduct risk.** Litigation, regulatory and conduct risk remains a priority for survey participants. This includes uncertainty over litigation risk in relations to transitioning different classes of customers and uncertainty over regulatory treatment of new RFR products. Survey participants have indicated that legislative solutions as well as regulator and industry-led moves to develop standard client outreach materials may be helpful.

2.4 **Local rates.** Based on responses received, we observed that there remains work to be done for local rates referencing LIBOR and other benchmarks. Certain local rates are not featured in industry documentation such as the ISDA Protocol, and there is a lack of information concerning transition milestones. Survey participants welcome more support in Asia in reforming local benchmarks.

Specific observations from participants' responses to the Survey can be found in the Annex.

3. **ACTION FOCUS AREAS**

3.1. The following section identifies, based on the feedback received from the Survey, certain issues that remain key in the Asia-pacific region as regards LIBOR and IBOR transition. This section does not purport to set out a specific action plan; rather, these issues are listed as "**action focus areas**" to signify that more, or continued, attention should be placed in these areas in the short to medium term.

3.2. In listing and identifying the following action focus areas, we are also deeply conscious that the Asia Pacific region is a diverse one, and the state of transition readiness differs greatly from one jurisdiction to another. We acknowledge that some regulators and jurisdictions have already taken comprehensive steps to tackle issues under some of the action focus areas listed below. We emphasise that this paper only represents the overall readiness of the region on a more generic level and does not take into consideration specific steps that may have been taken by local regulators in any jurisdiction.

3.3 Participants would welcome more attention to be paid to the following action focus areas specific to LIBOR transition:

(a) Promoting harmonisation in terms of approaches to transition across markets (whether LIBOR or non-LIBOR markets) and products, including for Islamic documentation and non-linear products;

(b) Addressing transition issues through:

(i) obtaining clarity in terms of key issues, including but not limited to:

(A) term rates;

(B) synthetic rates;

(C) tax and accounting treatment;

(ii) establishing concrete transition milestones to be put in place for jurisdictions that have yet to do so;

(iii) possible legislative solutions and protections; and

(iv) improving liquidity of RFR products;

(c) Mitigating litigation and conduct risk through:

(i) development of minimum or recommended standards for customer education and outreach;

(ii) clarity on regulatory and local law requirements; and

(iii) possible legislative or regulatory solutions and protections.

3.4 In addition, further work needs to be undertaken with respect to local rates. As the transition timeline for such rates may be longer (or in some cases, no transition plans may have been announced by administrators), it is possible that these issues may be of less urgency than the transition issues relating to LIBOR and LIBOR-referencing rates; however, survey feedback indicates that these are still areas of concern:

(a) obtaining clarity on transition plans for local benchmarks;

(b) if local benchmarks are to be transitioned, survey participants would welcome:

(i) clarity on transition milestones to enable participants to commence and manage transition planning; and

(ii) clarity on key issues such as intended alternative reference rates, fallback mechanisms, the possibility of synthetic rates, term rates and legislative solutions and protections.

3.5 A broad overview of expressly requested action focus areas are set out in the table below which summarises some of the key takeaways from the survey results. This is intended to be read together with the detailed survey responses in the Annex.

This has been broken down into two key areas:

(a) areas of regulator engagement or regulator-led action; and

(b) areas of industry-led action.

<table>
<tr><th colspan="2">Regulator engagement</th></tr>
<tr><td>Promoting harmonisation</td><td>Survey participants humbly request for regulators to look into issues relating to harmonisation of recommended ARRs, spread adjustment methodology and timing for transition across jurisdictions and product classes. Participants recognise that this will likely require cross-jurisdictional coordination and thank regulators in advance for their attention.

Participants have indicated that it is important to consider the international usage of benchmarks in determining the local approaches to IBOR transition, as overseas and domestic investors have different profiles.

In addition, participants welcome clarity from regulators in terms of the transition readiness in jurisdictions that have yet to make official statements in terms of its roadmap to LIBOR transition. The establishment of transition milestones can be extremely helpful for the industry.

Participants have also indicated that they would welcome trade associations taking the lead in regulator engagement to coordinate and work through such issues.</td></tr>
<tr><th colspan="2">Addressing transition issues</th></tr>
<tr><td>Obtaining clarity on key issues</td><td>Participation seek support for regulatory intervention and increasing awareness of these issues.

• Tough legacy contracts

Tough legacy contracts continue to be a concern. In particular, the take up for ISDA protocols in Asia is historically low, and do not cater for implied LIBOR in certain Asian currencies.

Participants have indicated that legislation would support the continuity of contracts post cessation of LIBOR, including providing definitive timelines and better clarity. However, the use of legislation continues to remain an unsettled point in other jurisdictions (e.g. in the UK/EU) where the efficacy of legislative solutions is still being discussed. Given the uncertainties and the timeline, participants will be grateful if regulators could consider the possibility, desirability and form of such legislative solutions, as well as form local working groups, to address specific issues.

• Synthetic LIBORs

Participants generally regard the use of synthetic LIBORs as a positive development to manage transitioning tough legacy contracts but have cautioned that their use can also potentially result in fragmentation and/or dampen uptake of RFRs.

Participants welcome clarification from local regulators on how local IBORs would operate with the synthetic rate.

• Reducing growth of LIBOR products

Continued growth of LIBOR products remains a major issue. Survey participants have indicated that the setting of transition milestones by regulators with respect to dealing with the continued growth of LIBOR loans and products is very helpful (for example with the FSB global transition roadmap for LIBOR and LIBOR transition harmonisation).</td></tr>
</table>

	• **Term Rates** More clarity as to whether and when term rates for local RFRs will be available, and how they may be used, would be welcome. • **Two-day lag in SOFR fixes** Participants humbly request for regulators to conduct further studies on the feasibility and potential issues faced by market participants – Some participants raised concerns that the two-day lag this might be too short, and that a five (5) day standard may be preferable. However, separately, there was also concern that a separate ASP-lag market could split liquidity between the global market standard lags/shift vs APAC. • **Transition for non-linear products** Participants expressed concerns on non-linear products such as include swaptions, in-arrears swaps, notes, deposits, non-vanilla and non-linear interest rate options. More consensus and harmonisation on the discounting switch for non-linear products across jurisdictions would be strongly welcome. Guidance on this point was indicated as being helpful for identifying and transitioning Asian Benchmarks at this stage of development. • **Data requests** Fragmented and differing requests can create significant operational challenges. Therefore, participants have highlighted that coordination on data requests by regulators would be helpful. • **Tax and accounting issues** Participants have noted that issues relating to accounting may arise in countries using local GAAP for local reporting, which do not provide for updates to deal with transition and issues relating to tax will also need to be considered. Therefore, participants would be grateful if local working groups could consider these issues (with local regulators, if necessary).
Exploring possible legislative solutions	• **Legislative and regulatory protections against commercial litigation and conduct risks** Numerous responses note developments in the UK, the US or the EU relating to the development of such protections. Specific examples cited include the UK FCA's proposal to create a synthetic "zombie" LIBOR rate, and proposed legislation in the EU to enable member states to nominate replacement LIBOR rates. Participants have responded that such developments should be shared with other jurisdictions, and most responses support the implementation of such measures. • **Legislative provisions for contracts to be amended automatically to provide for contractual fallbacks (including to address tough legacy contracts)** Participants are concerned with developments in this in all jurisdictions, with interest in the approach that has been taken in the US as a model for other jurisdictions. That said, some participants acknowledge that the likelihood of a US legislative before the end of 2021 seems to be quite slim.

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- **Legislative provisions to address tough legacy contracts generally and timing and scope of legislative solutions in other jurisdictions (e.g. US and UK) (including EU Benchmark Regulation) and its application to the Asian markets**

  Participants are concerned with developments in this in all jurisdictions. Specific points raised include suggestions for:

  (a) specific analyses as to whether tough legacy assets are a major issue, including for JPY LIBOR, SOR, PHIREF, THBFIX and MIFOR markets similar to what is done in USD, GBP and EUR markets;

  (b) jurisdictions without a working group on tough legacy contracts to form one, with regional awareness to be raised on adoption of legislative solutions in first mover jurisdictions;

  (c) the scope of such provisions to include cross-border transactions for legislative solutions so that Asian markets can benefit. In this regard, the interoperability of legislative approaches across jurisdictions is a key issue raised; and

  (d) jurisdictions to consider tools such as legislative relief or synthetic IBORs to aid the transition and to provide incentive to transition.

- **Legislative provisions to facilitate amendment of contracts by notice**

  Participants are concerned with developments in this in all jurisdictions. Such provisions can be subject to key parameters such as timely disclosure and adoption of industry recommended transitional approaches.

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<tr><td>Improving liquidity</td><td>

Participants have indicated liquidity as a major problem, with SOFR liquidity leaving room for improvement and liquidity of Asian RFRs lagging even further behind. Participants note that engagement from official sectors would help to mitigate risks of thinly traded rates.

Participants have called for liquidity to be developed as soon as possible for risk free rates being adopted. Suggestions for improving liquidity include:

(a) pre-cessation announcements;

(b) regulatory push or intervention;

(c) clarity and guidance by industry groups;

(d) expediting CCP and non-cleared derivatives discounting; and

(e) government note issuances (e.g. Monetary Authority of Singapore's measures in relation to SORA).

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<tr><td colspan="2" align="center">Addressing litigation and conduct risk</td></tr>
<tr><td>Customer education and outreach</td><td>

Participants are particularly concerned that end-users might not necessarily be aware of the implications of transition, and in many cases, are resistant to the transition.

Survey participants have indicated that standardisation or coordination of client outreach, for instance through the development industry or market-wide client outreach templates (by product and client segments), would be helpful. Such

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	standardisation can assist in reducing risk of conflicting messaging between different institutions and alleviate some of the resourcing issues faced by the industry. This can also be integral in managing conduct risk by establishing best practice or minimum standards. Regulators can also play an active role in customer education and outreach, for instance by setting up micro-sites educating consumers on IBOR transition issues. ASIFMA is open to partnerships with regulators to produce an Asian IBOR transition guide.
Regulatory and local law requirements	Participants are concerned by litigation and conduct risks caused by or arising out of: (a) potential value transfers caused by repapering of impacted contracts and the used of untested methodology; (b) inconsistent approaches to IBOR remediation across various businesses and jurisdictions. This is particularly a concern for interconnected products and non-ISDA contracts, and can lead to a mismatch of economic effects; and (c) a lack of clarity and consistency of regulatory obligations and expectations across various jurisdictions, with the potential for significant fines. Participants would be grateful for greater clarity on regulatory requirements around issues such as customer education and suitability, in order to provide certainty to market participants, particularly given the risk of expensive litigation or fines, for example through the setting of soft regulatory expectations. In addition, participants are concerned with the local developments in the following areas: (a) legislative protections against any offences with respect to compounding interest; (b) clarity on the documentation requirements, and approach to be taken, for the amendment of local language or local law documents, in a particular for documents in Indonesia, South Korea, Japan, China, Taiwan, Malaysia and Vietnam; (c) regulatory capital treatment under local rules (e.g. reclassification of securities); (d) regulatory relief from transaction reporting requirements across asset classes, including (i) the extent to which existing trade reporting requirements apply to the new RFR products and the readiness of market participants to report, and infrastructure providers to support such new products should be assessed; and (ii) any grandfathering of initial margin requirements across asset classes in Asia; (e) regulatory relief for compliance with G20 regulations in new RFR products (e.g. trade, reporting, margin, risk mitigation, clearing, mandatory trading etc.).

Exploring legislative and regulatory solutions	We have received feedback recommending: (a) the implementation of protection against litigation for sub-optimal outcomes where market/industry best practice was followed; (b) the enactment of legislation similar to the proposed approach in the US where firms follow a regulatory approved approach; and (c) the sharing of conduct and best practice guidelines between regulators for all market segments.
Local rates	
Clarity on transition plan	• **Lack of coordination between LIBOR jurisdictions (USD/GBP) and non-LIBOR jurisdictions on key milestones** Survey responses have indicated that the transitioning of APAC IBORs appear to be lagging behind USD and GBP markets. Participants have generally flagged that greater coordination is necessary and critical to facilitate the reform of local benchmarks, which includes rates such as MIFOR, PHIREF and Yen LIBOR. Participants welcome more clarity from regulators on plans to transition Asian Benchmarks. Participants also welcome a greater level of coordination between the USD and GBP markets.
Clarity on key transition related issues	Clarity and standardisation will be greatly welcome on recommended ARRs, spread adjustment methodology and timing for transition of Asian benchmarks. Certain local rates that are linked to LIBOR (e.g. MIFOR and PHIREF) do not have formalised contractual fallbacks with the ISDA framework yet, which could lead to costly bilateral negotiations during the repapering process. • **Local IBOR transitions** Participants humbly request for regulators to provide clarity as to dates for transition as well as conduct further consultations before transition takes place, in light of time constraints, and especially in light of the longer time periods that may be required for Asian IBOR transitions and other local IBORs which are not covered by ISDA protocols. • **Coordination between LIBOR and Non-LIBOR markets** As discussed in the previous section, participants would be grateful for more coordination between LIBOR and non-LIBOR markets, in particular for rates including MIFOR, PHIREF and Yen LIBOR. Participants would be grateful if regulators could consider an international use of benchmarks in its local approach towards IBOR transitions given the differing profiles of overseas and domestic investors. Timing is a concern for participants. While some participants have asked for more support for transition for local benchmarks, others have raised the concern that this may divert attention from international market participants and create resource challenges for affected parties. Generally, longer transitional timelines for non-LIBOR markets to assist in their transitions would be welcome.

Industry-led action	
General guidance	• **Asian guide to IBOR transition conduct risk** Participants take the view that introducing industry guidance on supervisory intent across all affected issues will be helpful, especially in legal, regulatory and documentation issues. ASIFMA will work with partners to prepare such a guide. • **Industry guides on public disclosure standards** Participants have indicated that having industry guidance on the minimum standards of public disclosure (in particular in relation to client and public communication on IBOR transitions) would be helpful. Given the differing requirements in each jurisdiction, working groups (that work with other industry partners) may have to be set up in each jurisdiction. • **Standardised education and training materials on client communication** Participants seek standardised materials to be developed for client sharing that passes a minimum industry standard.
Facilitating administration and data sources for local RFRs and RFR indices	Participants have expressly called for a public database of administration and data sources for local RFRs and RFR indices, including MIFOR, PHIREF, THBFIX, SOR and JPY LIBOR. This can be achieved by initiating an open source database and inviting other organisations, participants and partners to contribute and update.
Engagements with other trade associations This section covers action points arising out of feedback on specific industry sectors that are covered by other trade associations. ASIFMA will pass this feedback on to the appropriate associations.	• **ISDA IBOR protocol** Participants would be grateful if ISDA could consider introducing Bahasa Indonesian translations of the ISDA IBOR Protocol for use with Indonesian counterparties (given PR 63 implementing Language Law in Indonesia). • **Harmonisation** Harmonisation in approach continues to be a key concern between different product classes. Based on feedback, we recommend for different trade associations, such as the APLMA and ISDA, to work together to facilitate harmonisation across product classes. • **Local language documentation** Local language documents or those adjusted to local requirements can be developed in partnership with other associations, in particular for Indonesia, South Korea, Japan, China, Taiwan, Malaysia and Vietnam. We also note observations that locally developed master agreements are not covered by IBOR protocols. • **Client outreach**

	Participants generally view client outreach and education in non-LIBOR jurisdictions as essential. Engaging with other trade associations, especially those with influence in these jurisdictions, would be vital. Feedback further indicates local trade associations or any working groups formed for this issue should specifically consider buy-side firms as well as regional and local institutions as target groups for education. • **Regulatory relief for compliance with G20 regulations in new RFR products** Participants have requested that steps be taken to ensure exemption of legacy transactions from margin and clearing requirements if they are amended for IBOR transition, and the grandfathering of initial margin requirements. • **Islamic Documentation** Participants have encouraged ASIFMA to consider if there is room for an industry wide solution, or for a separate protocol/rider to be developed, for Islamic documentation (which are outside the scope of ISDA's Protocol Covered Documentation).
Gathering further information on tough legacy contracts	There is interest among participants to understand whether tough legacy assets are a major issue in the JPY LIBOR, SOR, PHIREF, THBFIX, and MIFOR markets specifically, and the extent that they are considered problematic. Participants would be grateful if APLMA and ISDA could consider reaching out to their local working groups to help identify these issues.
Assessing extent of regulatory relief from transaction reporting requirements (across asset classes)	Participants would be grateful if trade associations could consider the extent to which the existing trade reporting requirements apply to the new RFR products and the readiness of market participants remains to be assessed.
Tax and accounting issues	Participants have noted that issues relating to accounting may arise in countries using local GAAP for local reporting, which do not provide for updates to deal with transition and issues relating to tax will also need to be considered. Therefore, participants would be grateful if local working groups could consider these issues (with local regulators, if necessary).
Encouraging liquidity of RFR products	Liquidity of RFR has been observed to be a huge concern. Therefore, local working groups and regulators may have to consider how to effectively grow liquidity (for instance, through governmental support for local IBORs, and working together with CCPs).

ANNEX

Specific Survey Results

1. IBOR TRANSITION

Litigation Risk, Conduct Risk, Client suitability requirements related to transition

1.1 Participants are concerned by litigation and conduct risks caused by or arising out of:

(a) potential value transfers caused by repapering of impacted contracts and the used of untested methodology;

(b) inconsistent approaches to IBOR remediation across various businesses and jurisdictions. This is particularly a concern for interconnected products and non-ISDA contracts, and can lead to a mismatch of economic effects; and

(c) a lack of clarity and consistency of regulatory obligations and expectations across various jurisdictions, with the potential for significant fines.

1.2 Other concerns include:

(a) reputational concerns;

(b) difficulties in negotiations, particularly for cash products using the amendment approach; and

(c) concerns about customer engagement over:

(i) continued client demand for products referencing demising rates;

(ii) transition of complex legacy contracts (particularly for private banking clients) remains a concern;

(iii) education and outreach, particularly for a non-sophisticated client base; and

(iv) a lack of preparedness and capacity for dealing with RFR. Participants noted that time is required for resistant or less sophisticated clients to understand and become comfortable with RFRs and to adapt systems and processes where necessary.

Risk created by the timing misalignment of transition across asset classes, including impact on hedged transactions

1.3 Specific observations and comments from our participants that were received are set out below.

(a) More remains to be done in terms of building consensus across market participants and harmonising conventions across asset classes and between jurisdictions[1].

(b) Escalated timelines for product readiness expected by global regulators have introduced pressures for banks to expedite their transition progress when certain product/market conventions are still uncertain.

[1] (e.g. ISDA has implemented a protocol for derivatives, while there are not yet any corresponding measures for bond or loan markets).

(c) Customers may hesitate to transition hedged products until and unless all the product issues are resolved before transitioning can happen. The slowest product to transition will therefore hold up the process.

Development of contractual fallbacks and identification of RFRs for local benchmarks

1.4 Specific observations and comments from participants are set out below.

1.5 Time constraint might be an issue as transition efforts have seen much delay, and time is required to build up new curves and products using RFRs and to develop liquidity and clearing venues. Time is also required for organisations like ISDA to incorporate changes into their industry framework.

1.6 Clarity and standardisation will be greatly welcome on recommended ARRs, spread adjustment methodology and timing for transition of Asian benchmarks. Certain local rates that are linked to LIBOR (e.g. MIFOR and PHIREF) do not have formalised contractual fallbacks with the ISDA framework yet, which could lead to costly bilateral negotiations during the repapering process.

1.7 Should regulators intend to discontinue existing forward-looking benchmarks, participants have indicated further consultation would be helpful before such a transition.

1.8 Basis risk and settlement issues should be considered where forward looking local IBORs are swapped with a backward looking rate such as Secured Overnight Financing Rates ("**SOFR**").

Synthetic LIBORs and their impact on local benchmarks which are linked to LIBOR

1.9 The UK Financial Conduct Authority ("**FCA**") is currently considering synthetic LIBOR as one of the possible solutions to address tough legacy contracts.

1.10 Participants have generally seen this as a positive development to manage key transition risks, in particular, that the use of synthetic LIBOR may help to smoothen the transition for tough legacy contracts. However, participants have cautioned that care needs to be exercised because:

(a) The use of synthetic IBORs may encourage continued offering of LIBOR-based products and thus dampen the momentum in developing market consensus on critical adoption issues such as LIBOR fallback language, credit spread adjustment and forward term rates. As such, care needs to be exercised to avoid impacting AAR adoption;

(b) the risk of uncertainties in pricing and valuation variations giving rise to potential value transfer risks;

(c) There are questions of legal enforceability and validity; and

(d) there is a risk of unfavourable client outcomes due to changes in terms relating to fallback language, value transfer and conventions.

1.11 Participants have indicated that the form of the synthetic LIBORs will need to be understood before their impact on the four FX-implied benchmark rates can be determined.

1.12 Participants have also indicated that they would welcome clarification from local regulators on how local IBORs would operate with the synthetic rate.

Transition for non-linear products

1.13 Non-linear products include swaptions, in-arrears swaps, notes, deposits, non-vanilla and non-linear interest rate options. Participants have a number of concerns for this class of products, and it seems like considerable attention is required for transition away from LIBOR. Specific observations and comments from our participants that were received are set out below.

(a) Participants are concerned that in-arrears and range accrual option products might not work using the new RFRs. Participants have noted that the industry approach to these products remains unclear.

(b) For swaptions, greater consensus on compensation schemes to ensure fair treatment of all parties would be welcome.

(c) Observations were made that non-linear products are not as well-served by the ISDA fallbacks. Contract fallbacks for some of these instruments would require bilateral resolution which ISDA supplement or protocol may not help.

(d) It was observed that solutions to "Credit Support Annex ("CSA") discounting" for uncleared non-linear products is yet to be determined.

(e) More consensus and harmonisation on the discounting switch for non-linear products across jurisdictions would be strongly welcome.

(f) Some participants were worried that there is insufficient time for updating systems to support new ARR products, with manual processes having to be relied upon instead.

(g) Guidance on this point was indicated as being helpful for identifying and transitioning Asian Benchmarks at this stage of development.

Industrial guidance on overall conduct risk management framework relation to IBOR transition

1.14 Industrial guidance is generally welcome by most participants. Technical guidance, as well as guidance targeted at educating the mass market were requested. We set out some other concerns noted below.

(a) Participants would welcome more harmonisation in approach across different currencies and have flagged that there might be inadequate time for comprehensive assessment across existing regulations. This might adversely impact existing regulations as regards the transition of legacy portfolios across products (e.g. initial and variation margin requirements for legacy trades that are subject to transition).

(b) One response suggested for ASIFMA to work with Asian regulators to set soft regulatory expectations in line with Alternative Reference Rates Committee ("**ARRC**") and FCA milestones and conduct risk management.

Client outreach playbook guidance/template with industry expectation by product and client segments

1.15 This is generally welcome, with numerous responses noting that this would help smoothen the client outreach process. We set out below other points of interest.

(a) Participants note that greater coordination would be welcome on cross-asset scenarios. This is extra important given observations of a lack of end-user awareness over these issues.

(b) One response indicated that key areas of concern would include contract frustration, as well as existing agreements with insufficient fallback provisions and/or lack sufficient client adherence to protocols if LIBOR is discontinued.

(c) One response suggested for ASIFMA to work with Asian regulators to set soft regulatory expectations in line with ARRC and FCA milestones and conduct risk management.

Industrial public disclosure standard guidance

1.16 This suggestion is generally well-received by participants. Responses reveal worry over low adoption of ARR, low liquidity, as well as a failure to develop consensus across market participants on crucial adoption issues. It was also highlighted that such guidance can help in acceptance of ARRs and raise awareness of the impending changes.

Education training materials on client communication and highlight on conduct risk threat

1.17 This suggestion is generally well-received by participants. The general feedback suggests that minimum standards are required, and would be helpful, even if released on a one-off basis. Some responses noted that internal education materials might be best managed by individual organisations, although a standardised set of materials for client sharing would still be beneficial.

Lack of coordination between LIBOR jurisdictions (USD/GBP) and non-LIBOR jurisdictions on key milestones

1.18 Survey responses have indicated that the transitioning of APAC IBORs appear to be lagging behind USD and GBP markets.

1.19 Participants also welcome a greater level of coordination between the USD and GBP markets. Participants have generally flagged that greater coordination is necessary and critical to facilitate the reform of local benchmarks, which includes rates such as MIFOR, PHIREF and Yen LIBOR.

1.20 Continued growth of LIBOR loans has been **repeatedly flagged** by various respondents, alongside calls for greater international effort to develop new RFR products and ensure liquidity.

1.21 Client outreach and education was flagged as essential in non-LIBOR jurisdictions.

1.22 Participants are also concerned about the following.

(a) Participants would welcome greater coordination in how LIBOR jurisdiction regulators are approaching the transition and in data and information requests, and in ensuring that such requests are consistent.

(b) Participants would strongly encourage regulators to ensure that international usage of benchmarks are considered in their approaches to IBOR transition. It was noted that overseas and domestic investors have different profiles, and this is an important point for the FX-implied rates impacted by USD LIBOR changes. Multi-national trade associations like ASIFMA were requested to identify the possible impact on different jurisdictions to manage this issue.

1.23 Participants have pointed out that there has been more progress and focus for LIBOR jurisdictions with more liquidity. We have had mixed responses as regards the reform of domestic benchmark rates by regulators, with some asking for more support and others raising concerns that this diverts attention from international market participants and creates resource challenges for affected parties. Longer transitional timelines and potential BMR exemptions for non-LIBOR markets to assist in their transitions would be welcome.

2. RISK FREE RATES

Administration and data sources for local RFRs and RFR indices

2.1 Participants noted that having a public database of administration and data sources for local RFRs and RFR indices would be helpful for rates including MIFOR, PHIREF, THBFIX, SOR and JPY LIBOR.

Standardisation of the compounding of backward looking rates for local RFRs

2.2 Feedback indicated that additional clarity from respective central banks and regulators on their plans would be welcome. SORA and TONA regulators were highlighted as positive examples. For others, it was noted that it is still too early to identify particular rates. Participants emphasised that there are benefits in consistency.

Term Rates for local RFRs

2.3 Participants indicated that it is not clear when or even if the market will develop term RFRs, and that it would be helpful to obtain firm guidance on this, particularly as to timing. Points are raised that this would affect the market's switch to non-term RFR products and liquidity in the same. Participants note that engagement from official sectors would help to mitigate risks of thinly traded rates. Participants have also indicated that it would be helpful if US regulators could provide clarity on expected "use cases" of term SOFR.

Lack of liquidity for ARR rate sets/products during APAC hours

2.4 Feedback indicates that participants do need liquidity in SOFR derivatives during APAC hours in order to hedge USD risk.

Multiple benchmark rate environments

2.5 Again, participants raised the point about the market's reluctance to shift to RFR benchmarks, especially so in a multiple benchmark rate environment. Participants also indicated that there may be a risk of confusion to the market.

2.6 There were differing views on fragmentation risk. Some participants indicated that a two rate environment does not necessarily exacerbate fragmentation risk as long as conventions are appropriately agreed per asset class, while others felt that multiple conventions may result in additional fragmentation.

2.7 Some participants indicated that multiple benchmark options may be required to offset other financial risks associated with IBOR transition.

Two-day lag in SOFR fixes in relation to Asian time zones

2.8 Participants have noted that the time difference between the US and Asia may be an issue, particularly for jurisdictions that have not previously had active overnight indexed swap ("**OIS**") markets. Confusion and basis risk may arise where this results in different references being used in the same jurisdiction. Where SOFR is used to replace LIBOR, the rate fixing date may also need to be changed to three (3) days prior.

2.9 Some participants raised concerns that the two-day lag this might be too short, and that a five (5) day standard may be preferable. However, separately, there was also concern that a separate ASP-lag market could split liquidity between the global market standard lags/shift vs APAC.

Liquidity of RFR products

2.10 Participants have indicated that this is a major problem, with SOFR liquidity leaving room for improvement and liquidity of Asian RFRs lagging even further behind. Participants have called for liquidity to be developed as soon as possible for risk free rates being adopted. Suggestions for improving liquidity include:

(a) pre-cessation announcements;

(b) regulatory push or intervention;

(c) clarity and guidance by industry groups;

(d) expediting CCP and non-cleared derivatives discounting; and

(e) government note issuances (e.g. Monetary Authority of Singapore's measures in relation to SORA).

2.11 Participants indicated that SOFR liquidity may pick up following CCP discounting changes in October, but that this is still dependent on liquidity increasing in Europe and the US. There was concern that if a separate ASP-lag market emerges, this could split liquidity between the global standard and APAC.

3. LEGAL, REGULATORY AND DOCUMENTATION

Legislative and regulatory protections against commercial litigation and conduct risks

3.1 Numerous responses note developments in the UK, the US or the EU relating to the development of such protections. Specific examples cited include the UK FCA's proposal to create a synthetic "zombie" LIBOR rate, and proposed legislation in the EU to enable member states to nominate replacement LIBOR rates.

3.2 Participants have responded that such developments should be shared with other jurisdictions, and most responses support the implementation of such measures.

3.3 To the extent that legislative and/or regulatory protections are proposed, participants noted that they should be subject to appropriate and timely disclosure and adoption of industry recommended approaches for the transition.

3.4 We have received feedback recommending:

(a) the implementation of protection against litigation for sub-optimal outcomes where market/industry best practice was followed;

(b) the enactment of legislation similar to the proposed approach in the US where firms follow a regulatory approved approach; and

(c) the sharing of conduct and best practice guidelines between regulators for all market segments.

Legislative protections against any offences with respect to compounding interest

3.5 Participants are concerned with developments in this in all jurisdictions.

Legislative provisions for contracts to be amended automatically to provide for contractual fallbacks (including to address tough legacy contracts)

3.6 Participants are concerned with developments in this in all jurisdictions, with interest in the approach that has been taken in the US as a model for other jurisdictions. That said, some participants noted that the likelihood of a US legislative before the end of 2021 seems to be quite slim.

Legislative provisions to address tough legacy contracts generally and timing and scope of legislative solutions in other jurisdictions (e.g. US and UK) (including EU Benchmark Regulation) and its application to the Asian markets

3.7 Participants are concerned with developments in this in all jurisdictions. Specific points raised include suggestions for:

(a) specific analyses as to whether tough legacy assets are a major issue, including for JPY LIBOR, SOR, PHIREF, THBFIX and MIFOR markets similar to what is done in USD, GBP and EUR markets;

(b) jurisdictions without a working group on tough legacy contracts to form one, with regional awareness to be raised on adoption of legislative solutions in first mover jurisdictions;

(c) the scope of such provisions to include cross-border transactions for legislative solutions so that Asian markets can benefit. In this regard, the interoperability of legislative approaches across jurisdictions is a key issue raised; and

(d) jurisdictions to consider tools such as legislative relief or synthetic IBORs to aid the transition and to provide incentive to transition.

Legislative provisions to facilitate amendment of contracts by notice

3.8 Participants are concerned with developments in this in all jurisdictions. Such provisions can be subject to key parameters such as timely disclosure and adoption of industry recommended transitional approaches.

Documentation requirements and approach for amendment of local language/local law documents (e.g. NAFMII)

3.9 A wide range of concerns have been noted as regards this point.

(a) Participants are concerned with this for documents governed by commonly used governing laws (NY, English, HK).

(b) Participants would welcome greater clarity on local language/document requirements for Indonesia, South Korea, Japan, China, Taiwan, Malaysia and Vietnam.

(c) Participants noted that the documentation approach for locally developed master agreements (e.g. NAFMII) which are not covered by IBOR Protocol can be a concern. Participants have suggested that an industry solution coupled with bilateral outreach would be optimal.

(d) Some participants have noted that they will adopt bilateral amendment of affected contracts governed by local law in general.

Legal effect of amendments on third party collateral arrangement under governing/local law

3.10 Participants note that this is relevant to all market participants across all products (derivatives, loans and bonds).

Regulatory capital treatment under local rules (e.g. reclassification of securities)

3.11 Participants indicated that guidance on regulatory/supervisory intent across all affected issues would be useful.

Regulatory relief from transaction reporting requirements (across asset classes)

3.12 Participants note that this is important to all G-20 countries where trade reporting requirements have been implemented. The extent to which the existing trade reporting requirements apply to the new RFR products and the readiness of market participants to report, and infrastructure providers to support such new products should be assessed.

3.13 Participants are also concerned about the grandfathering of initial margin requirements across asset classes in Asia, as these countries are at different stages of rolling out uncleared margin requirements. Any amendments to RFR need to work with the timing of identification of derivative transactions that are subject to margining.

Regulatory relief for compliance with G20 regulations in new RFR products (e.g. trade, reporting, margin, risk mitigation, clearing, mandatory trading etc.)

3.14 Participants have raised the following points:

(a) regulators should exempt legacy transactions from margin and clearing requirements if they are amended for IBOR transition;

(b) most regulators have already issued an exemption for the G20 regulations;

(c) there is a need for consistency in terms of relief across APAC;

(d) readiness of market participants and infrastructure providers in G20 countries should be assessed; and

(e) participants are concerned with the grandfathering of initial margin requirements. Any amendments to RFR need to work with the timing of identification of derivative transactions that are subject to margining.

Others

3.15 Participants have suggested that legislation would support the continuity of contracts post cessation of LIBOR, provide definitive timelines and better clarity. One response suggested the following approach for legislation:

(a) to restrict legislative solutions to targeting tough legacy cases;

(b) to enact legislation for enabling the substitution of LIBOR rates where there are (i) multiple parties, (ii) unidentifiable parties, or (iii) unresponsive parties in the context of retail counterparties or sponsors that are no longer active; and

(c) for such legislation to be adopted in main LIBOR currency markets.

3.16 We have also received feedback raising concerns over **Islamic Derivatives Master Agreements** (the Islamic Derivative Master Agreements ("**IDMA**") and Tahawwut Master Agreement ("**TMA**")).

(a) Participants have flagged that there is no automatic adoption of the fallback protocol for Islamic documentations such as the IDMA and the TMA as these documents are not within the ambit of "Protocol Covered Documentation" as defined under the ISDA Protocol.

(b) We have received feedback that the market's contention is that there are no Shariah law issues with adherence to the ISDA Protocol.

(c) Feedback suggests that while Islamic banks can adhere to the protocol with its counterparties through bilateral negotiations (which ISDA has also published), these bilateral documents will have to be cleared by the Shariah Committee.

3.17 The preference would be for an industry-wide co-ordinated effort for this transitional process to be put in place. Banks are encouraged to ensure that documents should not deviate from the bilateral documentation for conventional trades of clients who signed on to ISDA documentations but do not intend to sign up to the ISDA Protocol.

4. LOCAL ACCOUNTING STANDARDS AND TAX RULES

4.1 Participants note that if countries using local GAAP for local reporting do not have updated accounting standards to deal with the transition, issues would arise. Local working groups in Hong Kong, Singapore and Japan have started work on this issue, but potentially all other jurisdictions would have to consider this. Additional clarity from regional or local industry bodies would be helpful.

4.2 Clarity from relevant tax authorities on appropriate and preferably similar tax treatments across jurisdictions would be helpful.

5. OTHERS

Bond amendment thresholds under local market practice

5.1 It was flagged that floating Rate Notes under New York law would be affected and that legislative solutions seem unlikely to be achievable in the remaining time frame.

Local Readiness

5.2 It was reflected that there remain jurisdictions where little to no official guidelines have been issued in respect of transition, and where it not clear whether there will be a standard benchmark. One respondent notes that this is concerning given the extent of the use of LIBOR in foreign currency and Quanto businesses.

Tough Legacy contracts

5.3 Some tough legacy contracts are product based, such as publicly traded bonds with high amendment thresholds. However, some are counterparty based, such as less sophisticated or aggressive counterparties.

5.4 The problem of "tough legacy" contracts is compounded in Asia, especially given COVID-19's impact where:

(a) new LIBOR business has originated for longer, new fallbacks were implemented later and there is generally less time to transition back books;

(b) ISDA Protocols traditionally have lower adoption rates and currently do not cater for implied LIBOR in INR MIFOR and PHP PHIREF; and

(c) The sheer volume of loan contracts outstanding raises the issue whether the market can transition them all on time, suggesting some of these products may be considered "tough legacy".

5.5 We have received feedback that it would be helpful to understand whether tough legacy assets are a major issue in Asia, including in the JPY LIBOR, SOR, PHIREF, THBFIX, and MIFOR markets, and the extent of the problem.

System readiness

5.6 Participants have highlighted the need to ensure third party vendors and their systems are ready for IBOR transition as well.

Pandemic concerns and delays

5.7 Participants have reflected that this has caused firms to direct resources to more pressing needs or have operating levels supressed. Work on IBOR transition has hence been disrupted. The timeline remaining is identified as being tight, and concerns that legislative solutions might not arrive on time has been flagged. One response noted that while some regulatory timelines have been pushed back, market participants now have a number of regulatory timelines to abide by and this further strains resources.

5.8 Participants would welcome a realistic timeframe for transition that accounts for current state of development of contractual fallbacks and RFRs, and other regulatory timelines and repapering efforts institutions are required to undertake in 2020/2021 (including IM and Brexit).

Market Awareness

5.9 Participants have identified the need to raise more awareness with regional and local financial institutions, and buy-side firms. The feedback is that market wide education would be helpful.