Responses to **ARRC CONSULTATION REGARDING MORE ROBUST LIBOR FALLBACK CONTRACT LANGUAGE FOR NEW ORIGINATIONS OF LIBOR BILATERAL BUSINESS LOANS**

Question 1. If the ARRC were to adopt one or more sets of bilateral business loan fallback language, which one or both of the recommended provisions (i.e., amendment approach and/or hardwired approach), in your view, is an appropriate policy? If you believe the amendment approach is more appropriate at present, what specific information (for instance, existence of term SOFR) would you need in order to get comfortable eventually adopting a hard-wired approach? Why?

We prefer the amendment approach at this time. Once a term based SOFR rate (and the related credit adjustment spread) is available, we expect market participants will be better equipped to transition to the hardwired approach. The lack of such term based SOFR rate at the current time is the primary concern with using the hardwired approach today.

Question 2. Question 2. Beyond your response to Question 1, are there product or transaction types, or methods of documenting transactions, for which either of the fallback approaches would be problematic? If so, please explain. What other approach would you suggest?

We cannot think of any product or transaction types, or methods of documenting transactions, for which either of the fallback approaches would be problematic.

Question 3. (a) Should fallback language for bilateral business loans include any of the pre-cessation triggers (triggers 3, 4 or 5)? If so, which ones?

(b) Please indicate whether any concerns you have about these pre-cessation triggers relate to differences between these triggers and those for standard derivatives or relate specifically to the pre-cessation triggers themselves.

(c) If pre-cessation triggers are not included, what options would be available to market participants to manage the potential risks involved in continuing to reference a Benchmark whose regulator has publicly determined that it is not representative of the underlying market or a Benchmark permanently or indefinitely based on a number of submissions that the Benchmark's administrator acknowledges to be insufficient to allow for production in a standard manner?

We do not think these are necessary in the loan market. The first two triggers are clear and objective standards.

Question 4. (a) Is an "opt-in" trigger appropriate to include? Why or why not?

(b) Do you believe an "opt-in" trigger should be included in both the hardwired and amendment proposals or only in one (please specify which and explain).

An opt-in trigger is appropriate to include and should be included in both the hardwired and amendment proposals.

Question 6. If the ARRC has recommended a forward-looking term rate, should that rate be the primary fallback for bilateral business loans referencing LIBOR even though derivatives are expected to reference overnight versions of SOFR? Please explain.

For those loans that have related hedges, it is important that the rates match. If the loan market references term based SOFR, related derivatives markets should ideally match such term based SOFR as well, or at least

give equivalent economics. We understand that term rates are not intended for derivatives in the current ARRC plan, but without equivalent economics, end users in the market will have open basis risk.

Question 7. Should the Lender be able to eliminate certain interest period options if there are no equivalent SOFR terms available? If so, consider the following options: (i) the Lender may remove all interest periods for which there is not a published term rate or (ii) the Lender may remove only the interest periods for which there is not a published term rate and a term rate cannot be interpolated. Which of the options do you support? Why?

We note that allowing an interpolated rate would be consistent with how credit agreements currently deal with certain LIBOR terms not being quoted.

Question 9. If you believe that Compounded SOFR should be included, which compounding period is preferable ("in arrears" or "in advance")? Would this preference be influenced by whether ISDA implements fallbacks referencing compounded SOFR "in arrears" or "in advance"?

In advance – as this gives more certainty on the rate upfront despite its inherent backwards looking nature.

Question 12. Do you believe that the ARRC should consider recommending a spread adjustment that could apply to cash products, including bilateral business loans?

Yes, a term based SOFR together with the credit adjustment spread will help the market transition smoothly and we anticipate that the lack of a credit component in overnight SOFR is a key feature differentiating it from LIBOR.

Question 15. For respondents that act as Lenders in the bilateral business loan market, would your institution be willing to (i) work with the Borrower to identify a new reference rate or spread adjustment, (ii) determine whether triggers have occurred, (iii) select screen rates where reference rates are to be found, (iv) interpolate LIBOR or term SOFR if there is a missing middle maturity, and (v) execute one-time or periodic technical or operational amendments to appropriately administer the replacement benchmark? Please respond to each and explain.

Yes to each of the above - we would anticipate working with our borrowers to make such determinations.

Question 16. In any of these situations, should the Lender have the right to take the relevant action, for example to designate loan terms unilaterally within the framework of either Appendix I or Appendix II, simply by notice to the Borrower? Alternatively, should the lender have the right to take such action, subject only to the Borrower's right to withhold consent? Please explain which approach, or what alternative approach, you think would be better.

Given the importance of the client relationship in making bilateral loans available it would seem inconsistent with that aim to make unilateral changes and impose them on the borrower. We would expect that a borrower should, at least, have an opportunity to withhold consent.

Question 17. Is it necessary that any replacement rate and/or applicable spread adjustment be published on a screen by a third party? Why or why not?

Yes the rate needs to be readily available so that it is objectively determinable.

Question 18. Given that market practices and conventions may change over time, should the Lender's limited ability to make conforming changes be available only at the point of transition or on a periodic, ongoing basis? Why or why not?

Point of transition seems most appropriate, but availability to make changes on an ongoing basis if justifiable reasons arise would provide useful flexibility.

Question 19. Are there operational concerns about having the ability to convert many loans over a very short period of time? Please explain.

The sooner the term based SOFR rate is made available, the sooner Operations and Technology departments at [lending] institutions can make the necessary configuration changes to supporting systems. Various technology changes/code changes may be needed from a product/processor/supplier perspective.

Question 20. Do you see other operational challenges that fallback language should acknowledge or of which the ARRC should be aware? For example, both approaches to fallback language involve various notices from the Lender – do these requirements and the resulting communications between parties impose undue operational burdens? Please explain.

Since it is envisioned that term based SOFR will be published in New York, transaction parties will need to be mindful, from an operational/rate setting aspect, in multi-currency facilities with foreign borrowers of the different timelines and time zones that may apply to USD/US borrowers vs. other currencies/rates/jurisdictions within the same credit agreement.

Question 21. If bilateral business loans fall back to a different rate from derivatives, how do market participants expect to handle the interplay of loans and their hedges? Would market participants expect that current swaps would be terminated and a new swaps entered into once the loan has transitioned?

We would expect that the documentation for each trade will take precedence and not cause termination – only trades originated simultaneously (such as indexed lending with embedded cross-currency swaps) would be expected to contemplate an unwind for both sides (if at all). Secondly, we would expect a basis swap market to develop to bridge the gap between the two fallback rates (such as Fed Funds + FF-Spread vs. SOFR (compounded) + S-Spread).

Question 22. Would market participants that execute interest rate hedges prefer to fall back to the same rate and spread that becomes operative under the ISDA Definitions even if a term SOFR is available? If so, please provide comments on the proposal for hedged loans set forth in Appendix VI, including a discussion of any operational concerns. Please provide comments on any other approaches you think could be useful in addressing fallbacks in loans and related hedges.

We would anticipate that a basis swap market would develop as needed.