

## Risks Related to the Use of Benchmarks in Derivatives

### ***London Interbank Offered Rate (LIBOR)***

It is the expectation that the publication of LIBOR will be discontinued after the end of 2021. LIBOR is currently set for five currencies (CHF, EUR, GBP, JPY and USD) and seven tenors based on submissions from panel banks. If cessation of LIBOR occurs during the term of your financial instrument, the contractual terms would provide a process for determining a fallback but it is unclear and uncertain what rate such financial instrument would reference as a result of that process. Due to this lack of clarity and certainty, there is no way to know at this time whether you would be disadvantaged economically. Timing for any cessation of LIBOR may vary across different currencies and tenors in which LIBOR is currently set for and such timing may differ from the timing for any cessation of other interbank offered rates (***IBORs***). In addition, the cessation of LIBOR may result in a mismatch between the rate referenced in your financial instruments, including potentially those that are intended as hedges.

### ***IBORs other than LIBOR***

While there is not currently an expectation that key IBORs other than LIBOR (***Other IBORs***) will be discontinued (examples such as EURIBOR, TIBOR, BBSW, BKBM, HIBOR, JIBOR, KLIBOR, BIBOR, SHIBOR, KORIBOR, TAIBOR<sup>1</sup>), there is no guarantee that such Other IBOR will continue to be produced and published for the entire term of your financial instrument (if so applicable). If cessation of the relevant Other IBOR occurs during the term of your financial instrument (if so applicable), the contractual terms would provide a process for determining a fallback but it is unclear and uncertain what rate such financial instrument would reference as a result of that process. As a result of this lack of clarity and certainty, there is no way to know at this time whether you would be disadvantaged economically. Timing for any cessation of the relevant Other IBOR may differ from the timing for any cessation of other rates. In addition, the cessation of the relevant Other IBOR may result in a mismatch between the rate referenced in your financial instruments, including potentially those that are intended as hedges.

### ***IBOR Fallbacks Supplement and ISDA Protocol***

The International Swaps and Derivatives Association, Inc. (***ISDA***) has published a supplement to the 2006 ISDA Definitions (***IBOR Fallbacks Supplement***) to include fallbacks to certain IBORs that would take effect and provide certainty if an index cessation event occurs with respect to such IBORs, including LIBOR and SOR. The IBOR Fallbacks Supplement will be effective as of 25 January 2021 (***Effective Date***). This means that new derivative contracts entered into on or after the Effective Date that incorporates the 2006 ISDA Definitions will include the relevant fallbacks for the IBORs set out in the IBOR Fallbacks Supplement.

ISDA has launched a protocol (***ISDA Protocol***) to enable market participants with legacy derivative contracts entered into prior to the Effective Date to adhere to the ISDA Protocol to update those legacy derivative contracts to incorporate the IBOR Fallbacks Supplement. Between parties who have adhered to the ISDA Protocol, the amendments to their existing derivative contracts will take effect on the later of the Effective Date and the applicable date on which both parties adhere to the ISDA Protocol.

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<sup>1</sup> This citation of Other IBORs is by no means exhaustive and solely for illustrative purposes as examples based on current information. The cited examples are subject to change depending on evolving local market developments.

**Next Steps**

You should consider either adhering to the ISDA Protocol or bilaterally amending outstanding derivative contracts to incorporate the IBOR Fallbacks Supplement. Adherence to the ISDA Protocol will amend contracts with other adhering parties but will not result in inclusion of the fallbacks in contracts with counterparties that do not adhere. If you choose not to adhere to the ISDA Protocol, your existing derivative contracts may be amended by way of a bilateral amendment agreement to include fallback terms that are mutually agreeable with your counterparties.

Even after the Effective Date, the cessation of LIBOR or SOR and the application of the IBOR Fallbacks Supplement may result in a mismatch between the rate referenced in your financial instruments, including potentially those that are intended as hedges.

You should review the terms of your outstanding financial instruments to determine if adhering to the ISDA Protocol or entering into appropriate bilateral amendments will meet your hedging objectives. You should also consider the tax, accounting and regulatory implications of executing and then potentially amending your outstanding financial instruments.

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