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ARRC Releases Market Consultations for the Securitization and Bilateral Loan Sectors



COMMENTARY

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ARRC Releases Market Consultations for the Securitization and Bilateral Loan Sectors

IN SHORT

The Situation: The Alternative Reference Rates Committee ("ARRC") released market consultations on the securitization and bilateral loan markets on December 7, 2018, concerning potential paths forward for benchmark (e.g., LIBOR) cessation fallbacks.

The Result: The Consultations utilize concepts and language from prior ARRC "cash market" consultations, but in new combinations and with new elements.

Looking Ahead: Responses to the Consultations are due February 5, 2019.

The Alternative Reference Rates Committee ("ARRC") has released two market consultations concerning "fallback" mechanisms for the securitization ("[Securitization Consultation](#)") and bilateral loan ("[Bilateral Loan Consultation](#)") and, together with the Securitization Consultation, "Consultations") markets that are proposed to operate in the event of a temporary or permanent cessation of LIBOR. The Consultations were released on December 7, 2018, and have a response date of February 5, 2019. The ARRC proposes to publish recommended language for new issues only for these markets on the basis of responses to the Consultations.

The Consultations utilize concepts and language from prior ARRC consultations on syndicated loans ("[Syndicated Loan Consultation](#)") and floating rate notes ("[FRN Consultation](#)") as building blocks but include special features to accommodate the unique circumstances and dynamics in the relevant markets. These include, most notably, the introduction of a "Designated Transaction Representative" (the identity of which is left to be negotiated in individual transactions) in securitizations to effect many important functions in connection with the LIBOR transition. For bilateral loans, the Consultations include an innovative feature to link the rate on loans to the operative rate under any hedges such that the loans transition away from SOFR (the Secured Overnight Financing Rate) in a manner designed to eliminate the basis risk that appears to be developing in other markets.

[Read the full version.](#)

THREE KEY TAKEAWAYS

1. The ARRC Consultations relate to proposed recommended language for new issues only; "legacy" issues will need to be amended to accommodate the potential demise of LIBOR in accordance with the amendment provisions generally applicable to interest rate amendments (which often require 100 percent consent of the lenders/bondholders).
2. Both Consultations rely heavily on "Term SOFR" and



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"Replacement Benchmark Spreads," which do not as yet (and conceivably may not ever) exist; however, the Bilateral Loan Consultation contains language specifically designed to eliminate swap/loan basis risk that may become useful in other contexts and markets.

3. The Securitization Consultation attempts to accommodate varying paces at which underlying assets are converted to SOFR or other post-LIBOR rates, but much work remains to understand consumer receivables and the parameters that would be applicable to converting them from a LIBOR basis to a SOFR or other post-LIBOR basis.



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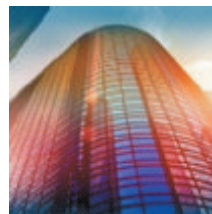
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