

# ISDA IBOR Fallback Update



CFTC MRAC  
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# ISDA IBOR Fallbacks: Implementation in ISDA Documentation

- Amendments to relevant floating rate options in Section 7.1 of the **2006 ISDA Definitions**
  - Amended and restated floating rate options will generally include:
    - The existing price source information;
    - A statement identifying the objective triggers for a ‘permanent cessation’ that would activate the selected fallbacks; and
    - A description of the fallback that would apply upon the occurrence of that trigger, which will be the adjusted RFR plus the spread adjustment
- Floating rate options in the 2006 ISDA Definitions are generally incorporated by reference into confirmations for uncleared interest rate derivatives and the rulebooks of CCPs that clear interest rate derivatives
- Amendments will be implemented via a ‘Supplement’ to the 2006 ISDA Definitions (currently about 60 supplements)
- Upon publication of the Supplement amending the relevant floating rate option, all *new* derivative transactions that incorporate the 2006 ISDA Definitions will include the fallbacks (counterparties will *not* have to take any additional steps)

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- ISDA will also publish a **Protocol** to facilitate inclusion of the amended definitions (i.e. the definitions with fallbacks) into *existing* derivative transactions that were entered into prior to publication of the relevant Supplement
  - Will apply to existing derivatives transactions that incorporate the 2006 ISDA Definitions, the 2000 ISDA Definitions or the 1991 ISDA Definitions
- Adherents to the Protocol will agree that derivatives transactions that they have entered into *with other adherents* prior to publication of the relevant Supplement will be based on the relevant amended floating rate options in the 2006 ISDA Definitions, notwithstanding of the dates of the transactions
- Existing derivatives transactions entered into prior to the date of the relevant Supplement amending the 2006 ISDA Definitions between counterparties that do not *both* adhere to the protocol, or otherwise (e.g. bilaterally) agree to include the amended definitions in their transactions, will not include the fallbacks

## Term and Spread Adjustments

- The **Compounded Setting in Arrears Rate** is the relevant RFR observed over the relevant IBOR tenor and compounded daily during that period
  - Backward shift of approximately 2 banking days will apply
- The **Five-Year Historical Median Approach** to the spread adjustment
  - Based on the median spread between the IBOR in the relevant tenor and the adjusted RFR over each corresponding tenor (so the spread will differ across different IBOR tenors).
  - Calculated over the five-year period prior to the relevant announcement or publication triggering the fallback provisions (but will not take effect until fallback rates actually apply, if a later date).
  - Will remain constant upon trigger.
  - No transition period.

# ISDA May 2019 Fallback Consultations Results – Pre-Cessation Issues

- **2019 Pre-cessation Consultation for LIBOR and Certain Other Interbank Offered Rates:**
  - In general, the respondents fell into three categories, without a clear majority in any one category:
    - Those who supported adding a pre-cessation trigger to the permanent cessation triggers in the “hard wired” amendment to the 2006 ISDA Definitions and related protocol.
    - Those who supported use of the pre-cessation trigger provided that it was implemented with optionality and flexibility (or indicated that their support for the trigger depended on a number of factors).
    - Those who opposed the pre-cessation trigger.
  - Respondents also expressed a number of issues for consideration related to the potential pre-cessation trigger itself and how to implement such a trigger.
  - Report summarizing responses published October 21, 2019, available at <https://www.isda.org/a/kkaTE/2019.10.21-Anonymized-Pre-Cessation-Consultation-Report.pdf>.
- **November 2019 Letter from FSB OSSG to ISDA**
- **December 2019 Response from ISDA to FSB OSSG**
  - Available on ISDA website at <https://www.isda.org/2019/12/04/isda-letter-to-fsb-oss-g-on-pre-cessation-issues/>.
  - ISDA is moving forward with implementation of permanent cessation fallbacks.
  - As we finalize the work to permanent cessation fallbacks, we will simultaneously work with regulators and the industry to increase market understanding of the implications of LIBOR being deemed non-representative, and will attempt to build a consensus on how to implement pre-cessation fallbacks.

## ISDA Consultation – Status and ISDA’s Next Steps

- **Q4 2019 – Q1 2020:**
  - Supplemental consultation on spread and term adjustments for EUR LIBOR and EURIBOR derivatives fallbacks.
- **Q1 2020:**
  - ISDA and Bloomberg finalize full methodologies for fallback rates.
  - ISDA publishes amendments to the 2006 ISDA Definitions and protocol for legacy transactions.
- **Q1 2020 – Q2 2020:**
  - Bloomberg publishes adjustments and fallback rates.
- **Q2 2020:**
  - Amendments to the 2006 ISDA Definitions and amendments made by protocol (i.e., amendments to include amended provisions of the 2006 ISDA Definitions in legacy transactions) take effect.
- **TBD (once the market has additional information identified in ISDA December 2019 letter to the FSB OSSG):**
  - Consultation on pre-cessation issues and development of documentation solution (based on results of consultation).