



# Meeting of the IBOR Transformation Working Group

24 September 2020 at 2.00pm

Via Webex

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## Minutes

### Attendees

Pieter Bierkens	Chair	Commonwealth Bank of Australia
Duncan Marshall	Member	Australia and New Zealand Banking Group Limited
David Ziegler	Member	Macquarie Group Limited
John Henson	Member	National Australia Bank Limited
Mark Beeley	Member	Westpac Banking Corporation
Kerryn Smith	Guest	National Australia Bank Limited

### Regulator Guests from 2:30 pm onwards

Alex Orgaz-Barnier	Guest	ASIC
Jessica Gao	Guest	ASIC
Andrea Brischetto	Guest	RBA
Lara Pendle	Guest	RBA

### Secretariat in attendance

David Love	Policy Executive	Secretariat
Mark McCarthy	Support Executive	AFMA
Murray Regan	Support Executive	AFMA
Natalie Thompson	Policy & Research Officer	AFMA

## 1. Meeting Opening

- 1.1. Meeting at 2:03 pm. Attendees and apologies were noted as above.
- 1.2. Previous minutes were accepted.

## 2. Call with RBA

Group discussed call with RBA discussion with RBA on Monday on Fallback consultation. Group agreed it would be better if RBA put out a public consultation paper on Repo eligibility expectations with regard to fallback language.

## 3. Preparatory discussion to ASIC call

Group discussed points in preparation of discussion with ASIC.

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#### 4. ASIC discussion re Best Practice Recommendations at 2:30 pm

Group discussed with ASIC comments it would publish on best practice recommendations on conduct issues related to LIBOR transition in the coming weeks. regarding issues identified by the Group before publication. Furthermore, we would like to discuss tough legacy contracts in Australia, specifically whether they are governed by Australian, English, or New York law.

Points covered by ASIC:

- *Treating clients fairly* - Acting fairly towards clients requires entities to act with ethical values, fair judgement and professional diligence. Comprehensive and timely disclosure about the risk and impact on clients should be provided. ASIC thinks focus should be on ensuring that clients understand the impact of LIBOR transition, the implications for their business, and various dependencies associated with the transition process.
  - Amend existing LIBOR-referenced contracts to include robust fallback rates based on industry standards
  - New transactions referencing LIBOR need to be carefully justified to clients, ensuring they understand that LIBOR is expected to cease after the end of 2021.
- *Performance of products and services* Issuing long-dated LIBOR contracts that expire after the end of 2021 without a fallback or adequate communication could be considered misconduct Upfront about actions that are required of clients during the transition process, including making changes to their treasury systems to ensure they are able to process overnight rates.
  - Discuss and manage term rate expectations of clients.
- *Client communication* - Clients may not have the same degree of knowledge and understanding of the transactions they enter into when compared to financial services providers and may also have a limited ability to negotiate terms. ASIC were assuming asymmetry of power and information between entities and their clients. ASIC expect entities to use their knowledge to help clients make decisions about the appropriateness of products and services, and not to take advantage of their potential lack of understanding about the transition process.
- *Risk management* - An adequate risk management framework with appropriate governance

It was noted to ASIC by the Group that buy-side entities also have a duty to ensure their clients are not disadvantaged during the transition and they have acquired appropriate resources in an environment where there is a potential skills shortage.

There was discussion on legacy contracts. General view was that the jurisdictions.

#### 5. Close of Meeting

The meeting closed at 4:32 pm.