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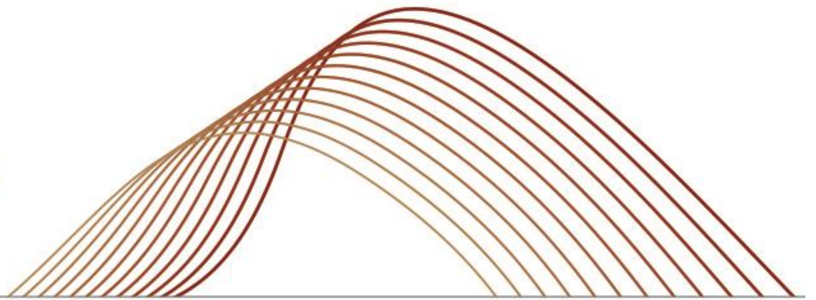

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Landmark ABP Deal Achieves First Amendment of LIBOR Legacy Bond to New Alternative Rate

By Joyce Sophia Xu, Michael Spafford, Diona Park, Daren Stanaway & Matthew Smith

On June 11, 2019, the transition away from the London interbank offered rate ("LIBOR") benchmark crossed a key threshold as Associated British Ports ("ABP"), the U.K.'s biggest port operator, became the first borrower to successfully secure consent from its bondholders to amend £65 million ($82.7 million) in floating-rate debt due in December 2022 to reference an alternative benchmark rate instead of LIBOR. With the anticipated discontinuation of LIBOR at the end of 2021, ABP proactively sought to amend the British pound sterling LIBOR-linked notes, which now will pay interest by reference to the sterling overnight index average rate ("SONIA"), a benchmark rate that U.K. regulators are keen to see replace LIBOR.

Due to the operational difficulties associated with consent solicitations and amendments to floating-rate notes, the Alternative Reference Rates Committee (the "ARRC"), in its recent recommended fallback language, included an "amendment approach" as an option for syndicated loans, but not for floating-rate notes.[1] However, in addition to becoming the first debt issuance based on SONIA, the ABP amendment demonstrates that consent solicitation may be a viable option for issuers to utilize when amending their own bonds, and establishes a model that other issuers and their investors can follow. ABP has made all documentation relating to the deal available on its website, found here, enabling market participants to review and decide which portions to replicate for their own LIBOR transition purposes.

The ABP amendment is a positive development in the global effort to shift away from LIBOR. According to the Federal Reserve Bank of New York, an estimated $1.8 trillion gross notional value of U.S. dollar LIBOR legacy notes and bonds exist globally.[2] Unlike the derivatives space, which has developed a standardized approach for addressing the phase-out of LIBOR, the process for amending the number of outstanding bonds tied to LIBOR will be more mechanical because bonds are issued on their own terms, with no single methodology pooling them all together. With the deadline for LIBOR's discontinuation approaching, financial regulators from the U.S. and U.K. are urging market participants to step up preparations for life after LIBOR and stop writing new contracts with LIBOR embedded in the terms.

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[1] For a more in-depth analysis of ARRC's recommended fallback language for floating-rate notes and syndicated loans, please see our recent publication, ARRC Releases Recommended Fallback Language for Floating Rate Notes and Syndicated Loans, available here.

[2] Michael Held (Executive Vice President and General Counsel of the Federal Reserve Bank of New York), SOFR and the Transition from LIBOR (Feb. 26, 2019), https://www.newyorkfed.org/newsevents/speeches/2019/hel190226.

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