

**ISDA response to the Bank of England consultation
Derivatives clearing obligation – modifications to reflect USD interest rate benchmark
reform: Amendments to BTS 2015/2205**

Executive Summary

ISDA members are supportive of the Bank of England’s (BoE) consultation on adapting the UK EMIR derivatives clearing obligation (CO) under UK EMIR in the context of the on-going interest rate benchmark reform. We also welcome the opportunity to provide further feedback through this supplementary consultation on Overnight Index Swaps (OIS) referencing SOFR.

ISDA members acknowledge the benefits of central clearing, as demonstrated by the current clearing rates for risk free reference rate (RFR) swaps. We believe that introducing a CO for OIS referencing SOFR could be a helpful tool for avoiding liquidity fragmentation.

We welcome that the BoE is trying to provide sufficient notice for firms to get prepared for the changes, both for the inclusion of SOFR OIS and for the removal of USD LIBOR contracts.

While not in scope of this consultation, we also ask that the subsequent impact of a CO for OIS referencing SOFR on the derivatives trading obligation (DTO) under UK MiFIR be kept in mind. This impact should be carefully and independently analysed as it could have detrimental impacts on the market. Transactions no longer subject to the CO (swaps referencing USD LIBOR swaps) should also be automatically removed from the scope of the DTO.

This response should be read in conjunction with our previous responses to the consultation “Derivatives clearing obligation – modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205” and the consultation “Derivatives clearing obligation – introduction of contracts referencing TONA: Amendment to BTS 2015/2205” and we will not repeat all points made in these responses.

Consultation Questions

1. Do you agree with the proposed modification to the scope of the clearing obligation? If not, please provide your rationale.

We do agree with the proposed modification to the scope of the clearing obligation, which would bring the UK in line with other large jurisdictions.

2. Do you agree with the proposal to add the SOFR OIS contract type to the clearing obligation on 31 October 2022?

As in previous responses we want to point out that, generally speaking, members require sufficient notice to prepare for implementing a clearing obligation.

Many preparations can only be done once the final rules are available. Such actions include for example:

- Adapting the control framework to make sure all transactions that fall under the new clearing obligation will be cleared
- Adapting middleware, which can include liaising with external suppliers that might impose their own notice periods
- Changes to reporting systems: for instance, EMIR reporting which requires adjustments in term of mandatory clearing instrument eligibility.

All these preparations take time, and our members require a sufficient notice period between final rules and effective date of the clearing obligation.

As long as there is sufficient notice we agree with the proposals, especially as the implementation of the clearing obligation for OIS swaps referencing SOFR would roughly coincide with similar obligations in the US and given that a similar obligation will be effective in the EU from 18 August 2022.

3. Do you agree with the proposal to align the date on which USD Libor contracts will be removed from the clearing obligation with CCPs' contractual conversions of these contracts?

We do agree in principle with the proposals to roughly align the date on which USD LIBOR contracts will be removed from the CO with the conversion dates of global CCPs. However, we understand that CCPs will not convert USD LIBOR swaps on the same day. We therefore propose to remove the clearing obligation for swaps referencing USD LIBOR on a date well before the earliest conversion date at any registered or exempt CCPs clearing these USD

LIBOR swaps. We propose Monday, 6 March 2023 for this effective date. We made a similar proposal to the US Commodity Futures Trading Commission.

We believe that establishing a firm date provides much needed clarity to the market. Should the BoE not want to use a fixed date, the BoE could also link the removal of the CO for USD LIBOR swaps to the first conversion date at any CCPs providing interest rate swaps clearing services in the UK. However, this approach could create uncertainty and make planning more difficult if such clearinghouses later change their proposed conversion dates on short notice.

4. Do you have any other comments on the proposal set out in this CP?

The impact of a CO for OIS swaps referencing USD SOFR on the DTO should be carefully considered by regulators in order to avoid detrimental market impacts. While, generally speaking, we are supportive of a clearing obligation for RFR swaps, we always welcome the fact that the BoE and the FCA are considering whether the CO and DTO (respectively) should apply to RFR swaps in separate consultations. ISDA members look forward to responding to any upcoming FCA consultations on that topic to ensure the best outcome for the industry and ensure international alignment. ISDA would also welcome early confirmation that the removal of swaps referencing USD LIBOR from the CO mandate will result in the automatic removal of these swaps from the scope of the UK DTO (given that they will no longer be subject to the clearing obligation).

Trade Association Contacts

Ulrich Karl, head of clearing (ukarl@isda.org)

Roger Cogan, head of European public policy (rcogan@isda.org)

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 990 member institutions from 78 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on [Twitter](#), [LinkedIn](#), [Facebook](#) and [YouTube](#).