



LIBOR

## LIBOR transition and SOFR loans: answers to frequently asked questions

## LIBOR转换方案和美元SOFR 贷款—常见问题解答

**Now is the time for lenders and borrowers to focus on LIBOR transition. Based on KWM's extensive experience in representing APLMA, major banks and corporates (including international and PRC-based) on their LIBOR transition projects, below are our answers to some frequently asked questions about USD LIBOR and Secured Overnight Financing Rate (SOFR) loans.**

现在是贷款人及借款人关注LIBOR转换方案的时候了。金杜律师事务所经常为亚太区贷款市场公会（APLMA）、中资及国际大型银行以及跨国企业提供LIBOR转换方面的法律服务，特此为您准备以下关于美元LIBOR和有担保隔夜融资利率（SOFR）贷款的常见问题解答。

1

### When will USD LIBOR disappear? What about EURIBOR and HIBOR? 美元LIBOR什么时候会停用? EURIBOR和HIBOR也会停用吗?

**USD LIBOR:** In essence, overnight, 1-month, 3-month, 6-month and 12-month USD LIBOR settings will cease to be published after June 2023, and the less commonly used 1-week and 2-month USD LIBOR settings will cease to be published after December 2021.

Despite the fact that the most popular USD LIBOR settings will not disappear until June 2023, a number of regulators (including those in the U.S., UK, Hong Kong SAR and the Financial Stability Board) have emphasised that the 30 June 2023 sunset date is designed to avoid the need to amend large quantities of legacy contracts and that banks should not enter into new LIBOR loans after December 2021.

Please note that different regulators may have different requirements or expectations about the timeline for LIBOR transition. Therefore, a lender should carefully review statements issued by regulators in each jurisdiction in which it operates.

**美元LIBOR:** 期限为隔夜、1个月、3个月、6个月以及12个月的美元LIBOR利率将在2023年6月后停止公布，而较为少用的1周和2个月期限的美元LIBOR利率将在2021年12月之后停止公布。

虽然最常用的美元LIBOR利率要到2023年6月之后才停用，一些监管机构（包括美国、英国、中国香港特别行政区（以下简称香港）的监管机构以及金融稳定理事会）已强调，在2023年6月30日之前继续公布最常用的美元LIBOR利率这一举措是为了避免修改大量的存量LIBOR贷款协议，而银行不应在2021年12月之后签订新增LIBOR贷款协议。

请注意，不同国家/地区的监管机构可能对LIBOR转换时间表的要求和预期存在差异。因此，银行应参考有关监管机构发布的声明或指引。

During the LIBOR transition period, many lenders and borrowers should choose to incorporate rate switch provisions into existing and new loan agreements. These provisions allow a loan to automatically switch from USD LIBOR to SOFR upon the occurrence of certain trigger events. Lenders and borrowers should carefully consider setting appropriate trigger events taking into account applicable regulatory guidance and operational readiness.

**EURIBOR:** European regulators have indicated that there is currently no plan to discontinue EURIBOR.

**HIBOR:** The HKMA has indicated that there is currently no plan to discontinue HIBOR.

在LIBOR转换过渡期内，贷款各方应考虑在存量 and 新增贷款协议中加入利率转换条款（rate switch provisions），以使贷款的基准利率在特定触发事件发生时自动从美元LIBOR转为SOFR。贷款各方在设置适当的利率转换触发事件时应考虑有关监管要求以及操作和系统方面的准备就绪程度。

**EURIBOR:** 欧洲监管机构表示目前没有停用EURIBOR的计划。

**HIBOR:** 香港金融管理局（HKMA）表示目前没有停用HIBOR的计划。

## 2

### What is SOFR, how does it differ from USD LIBOR, and what does all this mean for commercial loans? 何为SOFR? SOFR与美元LIBOR有何不同? 这一切对商业贷款意味着什么?

SOFR is a benchmark rate which has been selected to replace USD LIBOR. SOFR is administered and published by the Federal Reserve Bank of New York (NY Fed) and is based on transaction data that broadly measures the cost of borrowing cash overnight secured by U.S. treasuries.

The key differences between USD LIBOR and SOFR, and their implications for commercial loans, are summarised in the table below.

SOFR是由纽约联邦储备银行（纽约联储）管理和发布的基准利率，它已被确立为美元LIBOR的替代基准利率。SOFR的数值是基于美国国债抵押回购市场的隔夜交易。

以下图表归纳了美元LIBOR与SOFR的主要区别以及对商业贷款的影响。

| USD LIBOR<br>美元LIBOR   | SOFR   | Implications for commercial loans<br>对商业贷款的影响  |
|--|--|--|
| <p>USD LIBOR is a forward-looking term rate which tells you the interest rate for an interest period starting today and ending on a future date (e.g., one, three or six months later)</p> <p>美元LIBOR属于前瞻性期限利率，贷款各方在利息期开始时便得知未来一个期间的利率（如1个月、3个月或6个月利息期的利率）</p> | <p>SOFR itself is a backward-looking overnight rate which tells you the previous day's overnight interest rate</p> <p>SOFR 本身属于后顾性隔夜利率，其数值为前一个工作日的隔夜利率</p> | <p>Due to the forward-looking nature of LIBOR, the lender and the borrower will know the interest rate for a LIBOR-based loan at the beginning of the interest period, while the interest payment date is generally not until the end of the interest period.</p> <p>Knowing the interest rate well in advance is important to the borrower from a cash flow and liquidity management perspective.</p> <p>Using proposed forward-looking term SOFR (this concept is explained further below) or using overnight SOFR "in arrear" combined with a lookback period (typically 5 business days but may be longer) can enable the interest rate on a loan to be known in advance of the interest payment date.</p> <p>一般商业贷款的付息日为每个利息期的最后一日。LIBOR的前瞻性特点让贷款各方在每个利息期开始时（而非在利息期即将结束时）通过查阅彭博(Bloomberg)或路透社(Reuters)的相关页面得知贷款的基准利率。</p> <p>提前得知贷款利率有利于借款人的现金流和流动性管理，也为贷款各方提供了系统和操作方面的便利。</p> <p>贷款各方如果希望在付息日之前获知SOFR 贷款的利率，可以采用（1）前瞻性期限SOFR（下文将详细探讨该利率）或（2）后置利率算法，即采用与利息期长度相同的观察期内每个工作日的后顾性隔夜SOFR来计算利率。观察期一般会在付息日的5个工作日之前结束。</p> |
| <p>USD LIBOR has 7 different tenors ranging from overnight to 12 months, which correspond to interest periods of varying lengths</p> <p>美元 LIBOR的期限包括从隔夜到12个月的7种类型，以便对应不同长度的利息期</p>  | <p>SOFR itself has only one tenor – overnight</p> <p>SOFR 仅有一种期限—隔夜期限</p>  | <p>There are different methodologies for applying overnight SOFR to each day of an interest period, which effectively convert overnight SOFR into a backward-looking term rate.</p> <p>Alternatively, proposed forward-looking term SOFR (this concept is explained further below) for a tenor that corresponds to the interest period can be used as the benchmark rate for a USD loan.</p> <p>贷款各方可以通过多种计算方法将观察期内每天的后顾性隔夜SOFR 转换成后顾性期限利率。</p> <p>另外一种解决方法是采用期限与利息期相对应的前瞻性期限SOFR（下文将详细探讨该利率）作为美元贷款的基准利率。</p>  |

|   |  |   |
|---|--|---|
| <p>USD LIBOR represents the cost of borrowing on the unsecured London interbank lending market and therefore reflects interbank credit risk</p> <p>美元LIBOR 是伦敦银行间同业拆借的无担保借款利率，反映了银行间的信用风险</p> | <p>SOFR represents the cost of borrowing cash fully secured by U.S. treasuries, which means it is nearly free of credit risk</p> <p>SOFR 是美国国债担保的隔夜借款利率，几乎没有信用风险</p> | <p>There are different methodologies for applying a credit adjustment spread (CAS) to SOFR so that it approximates the interbank borrowing cost represented by USD LIBOR.</p> <p>One of the most common CAS calculation methodologies is the historical five-year median spread adjustment methodology, which essentially calculates the historical differences between LIBOR and SOFR during the past 5 years ending on 5 March 2021, when this CAS was fixed for all LIBOR settings. The fixed CAS for USD 1 month is 11.448 bps, for USD 3 months is 26.161 bps and for USD 6 months is 42.826 bps.</p> <p>由于SOFR 不包含信用风险溢价，可采用不同的方法对SOFR进行信用风险调整，即在SOFR的基础上加上信用风险调整值（CAS），以反映银行间信用风险。</p> <p>最常用的CAS计算方法是5年历史中值法，即把过去5年期间 LIBOR 与SOFR 利差的历史中值作为CAS。彭博指数服务有限公司已于2021年3月5日公布了固定CAS数值。美元1个月期的固定CAS数值为11.448 bps，3个月期为26.161 bps，6个月期为42.826 bps。</p> |
|---|--|---|



### 3 What is forward-looking term SOFR? 何为前瞻性期限SOFR?

While SOFR itself is a backward-looking overnight rate that reflects what happened to interest rates overnight, proposed forward-looking term SOFR (Term SOFR) is based on transactions in the large and growing SOFR derivatives markets (including SOFR futures and SOFR overnight index swaps) and reflects the SOFR derivative markets' expectations as to what will happen to interest rates.

Term SOFR is similar to USD LIBOR in the sense that both are forward-looking term rates that appear on a Bloomberg/Reuters screen and allow the borrower and the lender to know the interest rate on a loan at the beginning of each interest period. These features facilitate borrowers' cashflow and liquidity management and provide operational and systems convenience.

In light of the attractiveness of Term SOFR, the U.S.-based Alternative Reference Rates Committee (ARRC) has placed Term SOFR at the top of its benchmark rates waterfall for USD commercial loans, making it ARRC's preferred benchmark rate for these types of loans. On 29 July 2021, ARRC formally recommended 1-month, 3-month and 6-month 'CME Term SOFR Reference Rates' administered by CME Group Benchmark Administration Limited. This recommendation, together with a series of recommended loan conventions and best practices published by ARRC, mean that market participants should now have what they need to use Term SOFR in syndicated and bilateral loans. In particular, ARRC's recommended best practices provide guidance about when to use Term SOFR, as summarised in the table below. Notably, ARRC supports the use of Term SOFR in addition to other forms of SOFR for business loans.

SOFR 本身属于反映过去利率走势的后顾性隔夜利率，而前瞻性期限SOFR (Term SOFR) 以庞大的SOFR 衍生品市场交易 (包括SOFR 期货和隔夜指数掉期) 为基础，反映了SOFR 衍生品市场对未来利率走向的预期。

前瞻性期限SOFR与美元LIBOR 一样，能让贷款各方在每个利息期开始时通过查阅彭博或路透社相关页面获得贷款的基准利率。这有利于借款人的现金流和流动性管理，也为贷款各方提供系统和操作方面的便利。

鉴于前瞻性期限SOFR的优势，美国替代基准利率委员会 (ARRC) 已将其作为美元商业贷款替代利率瀑布条款的第一选项。2021年7月29日，ARRC正式推荐了参考期限为1个月、3个月及6个月的由芝商所基准管理有限公司 (CME Group Benchmark Administration Limited) 管理的前瞻性期限SOFR。ARRC的这一推荐以及近期发布的前瞻性期限SOFR贷款惯例和最佳用法指南，意味着市场参与者已具备在银团贷款和双边贷款中使用前瞻性期限SOFR的一切所需信息。其中，ARRC发布的贷款惯例有助于SOFR贷款协议的制定和标准化，而ARRC推荐的最佳用法指南为何时采用前瞻性期限SOFR提供了重要的指导建议 (具体请参考以下图表)。值得一提的是，ARRC支持在商业贷款中采用前瞻性期限SOFR以及其他形式的SOFR利率。

In contrast, the UK-based Working Group on Sterling Risk-Free Reference Rates (Sterling Working Group) has not recommended using forward-looking term SONIA for GBP loans. This is significant because the standard facility documentation published by the Loan Market Association (LMA) and Asia Pacific Loan Market Association (APLMA) is generally based on the Sterling Working Group's recommendations. Therefore, the LMA's/APLMA's standard facility documentation currently does not use Term SOFR. However, a set of adjustments can be made to any loan agreement to make Term SOFR the reference interest rate for a USD loan.

Given the advantages of Term SOFR from a liquidity/cashflow management and operational/systems perspective, lenders and borrowers should consider whether to use Term SOFR for their USD loans.

相较之下，英国成立的英镑无风险参考利率工作组(Sterling Working Group)并没有推荐英镑贷款使用前瞻性期限英镑隔夜平均指数(SONIA)。这一点的重要性在于，由总部位于伦敦的贷款市场协会(LMA)和亚太区贷款市场工会(APLMA)发布的无风险利率模板贷款协议是根据SWG的建议而制定的。因此，LMA/APLMA的模板贷款协议目前没有采用前瞻性期限SOFR。然而，任何贷款协议均可通过内容上的调整将前瞻性期限SOFR设为美元贷款的基准利率。

鉴于前瞻性期限SOFR的各种优势，贷款各方应考虑是否在美元贷款协议中采用前瞻性期限SOFR利率。

## Summary table – ARRC's recommended best practices about when to use Term SOFR

### 总结图表 — ARRC发布的前瞻性期限SOFR最佳用法指南

| Product types<br>产品类型  | Legacy transactions<br>存量交易  | New transactions<br>新增交易  |
|--|--|---|
| <p><b>Bilateral and syndicated business loans (including middle market loans and trade finance loans), floating rate notes and U.S. securitisations</b></p> <p>双边和银团商业贷款（包括中间市场贷款和贸易融资贷款）、浮动利率票据和美国市场上的证券化项目</p> | <p>Term SOFR is at the top of ARRC's fallback waterfall</p> <p>前瞻性期限SOFR是ARRC推荐的替代利率瀑布条款中的首选</p>   | <p>ARRC supports the use of Term SOFR in addition to other forms of SOFR for business loans</p> <p>Having said this, ARRC generally recommends that market participants use backward-looking overnight SOFR, particularly in markets where transition to SOFR has been relatively successful, such as floating rate notes and U.S. securitisations</p> <p>ARRC 支持在商业贷款中采用前瞻性期限SOFR以及其他形式的SOFR利率。</p> <p>与此同时，ARRC 也建议市场参与者在一般情况下使用后顾性隔夜SOFR，尤其是在LIBOR过渡方面相对成功的市场中，例如浮动利率票据市场和美国证券化市场。</p> |
| <p><b>End-user facing derivatives intended to hedge cash products (such as loans and bonds) that reference Term SOFR</b></p> <p>目的在于对冲与前瞻性期限SOFR挂钩的现金产品（如贷款和债券）的最终用户衍生品（end-user facing derivatives）</p>         | <p>There are unlikely to be many existing end-user hedging derivatives that already reference Term SOFR</p> <p>目前只有较少的存量最终用户衍生品交易满足这一描述</p>  | <p>ARRC recommends that Term SOFR derivatives be limited to end-user facing derivatives intended to hedge cash products (such as loans and bonds) that reference Term SOFR</p> <p>ARRC 建议参考前瞻性期限SOFR的衍生品应仅限于旨在对冲与前瞻性期限SOFR挂钩的现金产品（如贷款和债券）的最终用户衍生品</p>   |
| <p><b>All other derivatives</b></p> <p>其他衍生品</p>   | <p>Derivatives markets are generally transitioning to backward-looking SOFR compounded in arrears (e.g., the ISDA 2020 IBOR Fallbacks Protocol)</p> <p>衍生品市场正在向后顾性SOFR 后置复利计算法转移（例如：ISDA 2020年IBOR后备方案议定书）</p> | <p>ARRC recommends using backward-looking SOFR compounded in arrears (e.g., the ISDA 2020 IBOR Fallbacks Protocol)</p> <p>ARRC 建议使用后顾性SOFR后置复利计算法（例如：ISDA 2020年IBOR 后备方案议定书）</p>  |
| <p><b>Other financial products</b></p> <p>其他金融产品</p>   | <p>Market participants should generally use backward-looking overnight SOFR</p> <p>在一般情况下，市场参与者应使用后顾性隔夜SOFR</p>  | <p>Market participants should generally use backward-looking overnight SOFR</p> <p>在一般情况下，市场参与者应使用后顾性隔夜SOFR</p>   |

## Should simple SOFR or compounded SOFR in arrear be used 应该使用单利计算法还是复利计算法？

If the parties choose not to use Term SOFR, then the interest rate for a USD loan can be determined 'in arrear', which means the applicable overnight SOFR (a backward-looking rate) is applied to each day during an interest period. To partly mitigate the payment certainty and liquidity management challenges that the backward-looking nature of overnight SOFR presents to borrowers, a lookback period of 5 business days is commonly applied such that the overnight SOFR from 5 business days ago is used for each day during the interest period. The advantage of having such a lookback period is that the interest rate will be known 5 business days before interest payment is due at the end of the interest period.

Lenders and borrowers will need to consider whether to apply SOFR to each day on a simple or compounded basis. The compounding methodology recognises that the borrower does not pay interest owed every day and therefore keeps track of the accumulated interest owed but not yet paid. While compounding is economically more accurate, simple interest is more straightforward and the difference between simple SOFR and compounded SOFR is typically only a few basis points or less. Please note that the NY Fed and third-party vendors publish various compounded SOFR screen rates and indices so that most lenders and borrowers should not have to calculate compounded SOFR themselves.

如果贷款各方不选择使用前瞻性期限SOFR，那么美元SOFR贷款一般会采用“后置利率”（in arrear）计算法，即采用与利息期长度相同的观察期内每个工作日的后顾性隔夜SOFR来计算贷款的基准利率。为了减少后顾性隔夜SOFR给借款人流动性管理带来的不便，贷款人在计算利率时一般会设置一个5个工作日的回溯期（lookback period），即让观察期在付息日的5个工作日之前结束。设置回溯期的好处在于贷款各方在付息日的前一周就可以得知贷款的利率。

后置利率计算法可以被细分为单利计算法和复利计算法。从经济角度考虑，复利计算法更加准确（因为借款人并非每天都支付所欠利息，因此所欠但未支付的累计利息本身也应计息），但单利计算法更为便利，而且两种计算法之间的差异通常只有几个基点甚至更少。值得一提的是，纽约联储和第三方供应商会发布多种复利SOFR屏幕利率和指数，这样贷款各方就不需要自行计算复利SOFR利率了。

## Key steps in a LIBOR transition project LIBOR转换项目中的关键步骤

Based on our experience in advising international and PRC-based banks and corporates on LIBOR transition matters, key steps in a LIBOR transition project generally involve:

- **Understanding and making informed choices** regarding the different options and methods for calculating the interest rate on SOFR loans, such as:
  - whether to use Term SOFR, simple SOFR in arrear or compounded SOFR in arrear
  - the length of any lookback period
  - the method for calculating CAS
  - fallbacks if SOFR is unavailable
  - the applicability of break costs
  - the triggers for switching from USD LIBOR to SOFR
- **Preparing standard SOFR and rate switch provisions which can be used in new loan agreements going forward**
- **Reviewing existing loan agreements to assess whether they need to be amended**, taking into account factors such as:
  - the currency of the loan (as noted above HIBOR and EURIBOR will continue to be published)
  - the length of interest periods (e.g., whether the borrower of a USD loan can select 1-week or 2-month interest periods because those USD LIBOR settings will discontinue after December 2021)
  - the maturity date (e.g., whether a USD LIBOR loan matures after June 2023)
  - the adequacy of fallbacks (many legacy loan agreements that are based on LMA/APLMA standard facility documentation will ultimately fall back to the lenders' cost of funds, which may present operational or uncertainty issues for certain lenders and borrowers)

根据我们在这一领域的有关经验，一个典型的LIBOR转换项目一般包括以下关键步骤：

- **了解SOFR贷款中计算利率的不同选择和方法**，并做出符合银行/企业自身情况以及市场惯例的选择，例如：
  - 使用前瞻性期限SOFR、后置单利计算法还是后置复利计算法？
  - 回溯期的长度
  - CAS的计算方法
  - 无法获得SOFR利率时的替代利率
  - 资金中断成本的适用性
  - 从美元LIBOR转换至SOFR的触发事件
- **准备符合银行/企业自身情况以及市场惯例的标准SOFR利率条款和利率转换条款**，以便在贷款协议中使用。
- **审查存量贷款协议以判断需要对哪些协议进行修改**，其中应考虑的因素包括：
  - 存量贷款的币种。如上所述，目前没有停用HIBOR和EURIBOR的计划。
  - 存量贷款利息期的长度。例如，鉴于美元LIBOR将在2021年12月之后停用，贷款各方应确认存量贷款协议是否仍然允许借款人选择1周或2个月利息期的美元贷款。
  - 存量贷款的到期日。例如，存量美元LIBOR贷款是否在2023年6月后到期。如上所述，所有期限的美元LIBOR利率将在2023年6月后停止公布。
  - 存量贷款协议的备用利率条款。很多基于LMA/APLMA模板协议的存量贷款协议将贷款人的资金成本（Cost of funds）作为最终备用方案。这可能会给部分贷款人和借款人带来操作方面的不便或不确定性。

## Contacts 联络人



**Lv Yinghao 吕膺昊**  
Partner 合伙人  
T +86 10 5878 5588  
M +86 13910892256  
lvyinghao@cn.kwm.com



**Richard Mazzochi 马绍基**  
Partner 合伙人  
T +852 3443 1046  
M +852 6056 8488  
richard.mazzochi@hk.kwm.com



**Dale Rayner**  
Partner 合伙人  
T +61 2 9296 2139  
M +61 408 261 803  
dale.rayner@au.kwm.com



**David Lam 林永耀**  
Partner 合伙人  
T +852 3443 1075  
+61 2 9296 2062  
david.lam@au.kwm.com



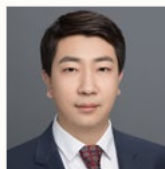
**John Shum**  
Partner 合伙人  
T +65 6653 6505  
M +65 8321 6377  
john.shum@sg.kwm.com



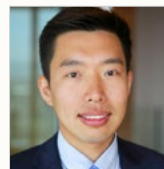
**Anne-Marie Neagle**  
Partner, Melbourne  
T +61 3 9643 4258  
M +61 407 278 594  
anne-marie.neagle@au.kwm.com



**Minny Siu 萧乃莹**  
Partner 合伙人  
T +852 3443 1111  
M +852 6390 4561  
minny.siu@hk.kwm.com



**Du Rui 杜睿**  
Counsel 顾问  
T +86 10 5878 5922  
M +86 17710232133  
durai2@cn.kwm.com



**Andrew Fei 费思**  
Senior Associate  
T +61 3 9643 4429  
M +61 437 267 307  
andrew.fe@au.kwm.com

