IBOR Transition Loans Disclosure Statement – New Zealand.

General information on discontinuation of benchmarks in loan documentation and some associated risks.

Please visit Westpac New Zealand Limited's (**Westpac**) website for general IBOR disclosure and the Westpac IQ IBOR Transition at the Westpac group site for a general introduction to the discontinuation of reference rates and indices (**Benchmarks**), including the London Interbank Offered Rate (**LIBOR**), in loan documentation and some associated risks.

Loan documentation which references Benchmarks will typically include provisions intended to address the unavailability of Benchmarks, such as LIBOR. Whilst these fallback provisions will differ (depending on the type of loan, deal-specific negotiations etc.), such provisions, at least historically, are designed to address short-term unavailability of Benchmarks only. In addition, such provisions typically in Europe and Asia Pacific, including Australia and New Zealand, will include a final fallback referencing the lender's cost of funding and in the US typically will include a final fallback referencing the alternative base rate in relation to syndicated loans and/or PRIME in relation to bilateral loans. The application of these rates, or any other fallback rate, may represent a significant change to the amount of interest payable.

It is important that parties familiarise themselves with the Benchmarks as well as the fallback provisions in their loan documentation and take advice as to the potential impact and risks associated with the discontinuation of benchmarks and indices, such as LIBOR.

If one or more of the parties to a loan wish to use a fallback Benchmark which is not provided for in the loan documentation, this will require an amendment to the loan documentation. The loan documentation may specify which parties are required to consent to such an amendment. In relation to syndicated loans, this process is likely to be led by the agent and consent will likely be required from, amongst others, all or a specified majority of the lenders. There is no guarantee that it will be possible to reach an agreement on an amendment with the relevant parties. It is important that parties familiarise themselves with the consent requirements in their loan documentation and take appropriate advice.

Parties may find it useful to consider fallback language and other documents (including as to amendment of loan documentation) produced by loan market bodies such as the Alternative Reference Rates Committee (ARRC) in the United States and the Loan Market Association (LMA) in Europe and the Asia Pacific Loan Market Association in the Asia-Pacific in connection with the discontinuation of benchmarks and indices, such as LIBOR.

The LMA published "replacement of screen rate" wording for future amendments to be implemented in syndicated loans in a way which requires the majority lenders rather than all lenders to agree. In line with the recommendation of the Working Group on Sterling Risk-Free Rates that all new and re-financed LIBOR-referencing loan products from the end of Q3 2020 should include clear contractual arrangements through pre-agreed conversion terms or an agreed process for renegotiation to facilitate conversion to a new rate ahead of the end-2021, this wording now also includes provision for good faith negotiations to agree a replacement rate by a specified date (with any pre-agreed terms to be included). The LMA has also published an exposure draft of its multicurrency rate switch facility agreement. This provides for a facility agreement with LIBOR-based interest to switch into interest based on SONIA, SOFR, SARON and/or €STR upon the occurrence of a "Rate Switch Date" for the relevant currency (and taking effect from the next interest period for existing loans). The rate switch date can be triggered by a "Rate Switch Trigger Event" – a concept which includes the permanent cessation of a benchmark.

In addition, the ARRC published in April 2019 two versions of its recommended contractual LIBOR fallback language for US syndicated and bilateral loans referencing USD LIBOR. One version prescribes from the outset an independent waterfall of fallbacks to apply in the event that USD LIBOR ceases to be provided (or is announced to be non-representative) (called the "hardwired approach"). The ARRC published updated hardwired fallback language for syndicated loans in June 2020 and for bilateral loans in August 2020. The other version introduces an amendment mechanism for negotiating an alternative benchmark and therefore defers all decisions about the successor rate and adjustment until the relevant trigger event occurs (called the "amendment approach"). Among other things, the amendment approach fallback language provides for future amendments that implement the successor rate to be effected subject to a negative consent right of majority lenders rather than the affirmative consent of all lenders as would typically be required for modifications to applicable interest rates.

It is possible that the application of a fallback Benchmark under the terms of a loan with Westpac (or one of its affiliates) as lender (a Westpac Loan) may result in a change to the amounts payable under the terms of the Westpac Loan as well as changes to its value. This may be the case even if the terms of the Westpac Loan provide for the application of an 'adjustment spread' to the fallback Benchmark.

If the fallback Benchmark is a risk-free (or near risk-free) rate (RFR), then it is a rate calculated by reference to actual transactions in the overnight money market. It may be that, unless a forward-looking term RFR is developed and used for the relevant currency (market efforts to produce term RFRs remain ongoing), the interest rate is only determined at (or near) the end of an interest period based on a collection of overnight rates, rather than at the start of an interest period as is currently the case.

As RFRs in different currencies are being developed, it may be that these rates are developed at different times and on a different basis, resulting in different amendment consequences for different currencies. More generally, the loan markets continue to evolve in this area and language in Westpac Loans dealing with the risk of Benchmark discontinuance may be different from that of other products or lenders. Where the loan is a syndicated loan, differences may also emerge as the amendments are likely to be led by the agent and decisions may rest with the majority lenders, which may not include Westpac or its affiliates.

Generally, there are risks associated with using a derivative transaction to hedge underlying exposure under a loan. The time at which and the way in which the fallback operates under the derivative transaction may cause the derivative transaction to hedge any underlying exposure less effectively. Examples of differences in operation include differences in fallback rate (such as a difference in the way in which the RFR is adjusted or the spread is calculated), differences in interest accrual periods or payment dates resulting from varying accrual or payment conventions and a difference in triggers (such as the inclusion of a pre-cessation or non-representativeness trigger in one instrument but not the other). Any mismatches may also impact the accounting treatment (such as hedge accounting) and tax treatment. The New Zealand division of Westpac Banking Corporation ABN 33 007 457 141 (**WBC**) provides derivative products in New Zealand. Please refer to **WBC's General information related to the discontinuance of benchmarks in derivative transactions and some associated risks** and obtain appropriate advice.

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