

# P.R.I.M.E. Finance

## Panel of Recognized International Market Experts in Finance

### Beyond LIBOR: New Benchmarks And New Issues Affecting Benchmarks



P.R.I.M.E. FINANCE  
Panel of Recognised International Market Experts in Finance



Presentation by Thomas Werlen  
2017 P.R.I.M.E. Finance Annual Conference  
23 & 24 January, Peace Palace, The Hague

# Agenda

- 1 Scope of the Panel's Discussions**
- 2 From the LIBOR Scandal to other Benchmark Manipulations
- 3 Involvement of Authorities
- 4 Agenda



# Beyond LIBOR: New Benchmarks and new Issues affecting Benchmarks

- Benchmarks causing regulatory issues include but are not limited to LIBOR
- Alternative systems to determine benchmarks are explored due to regulatory and investigatory pressure but also following industry initiatives
- Investigations are still ongoing and private enforcement is in full steam
- Goal of today is to update on current developments on all fronts



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# From LIBOR... (1/2)

- Benchmark reference rate for debt instruments, including government and corporate bonds, mortgages, student loans, credit cards; as well as derivatives such as currency and interest swaps, among many other financial products
- In early 2008, New York Fed learns of false reports
  - “*we know that we’re not posting, um, an honest rate*” (statement of Barclays employee to a New York Fed official)
- Provoked a series of regulatory actions, e.g.:
  - Barclays settled a case with U.S. and UK authorities for \$435 million in July 2012, and in August 2016 agreed to pay an additional \$100 million to forty-four U.S. states for its role in manipulating the dollar-denominated LIBOR rate
  - In December 2012, UBS paid global regulators, led by U.S. CFTC, a combined \$1.5 billion in penalties. The complaint cited over two thousand instances of wrongdoing committed by dozens of UBS employees.



# From LIBOR... (2/2)

- Sanctions against individuals
  - Tom Hayes sentenced to 11 years and ordered to repay £878,806 in December 2015 in a trial brought by the U.K. Serious Fraud Office (SFO)
  - 3 former employees of Barclays Bank convicted in June 2016 in a trial brought by the SFO with sentences between 2¾ and 6½ years
- Litigation in civil courts
  - In the U.S.: See Judge Buchwald's cases
  - In the UK: *Property Alliance Group Ltd v The Royal Bank of Scotland plc*



## ... to ISDAfix

- Benchmark reference rate value for fixed interest rate swap rates
- First allegations in 2009 in the wake of the LIBOR investigations
- Investigations by regulators in the U.S., Canada, Japan, Switzerland and the EU
  - E.g.: 21 December 2016, CFTC orders Goldman Sachs to pay \$120m penalty
- Class actions filed in the U.S. in 2014
  - In May 2016, 7 banks including Bank of America Corp., Barclays Bank Plc and Citigroup Inc. agreed to pay \$324 million to settle claims they conspired to rig the ISDAfix benchmark (*Alaska Electrical Pension Fund v Bank of America*)



## ... to FX

- Daily exchange rate fix (at the time) based on actual currency deals that took place in a window 30 seconds before and 30 seconds after 4 pm London time
- June 2013: Bloomberg News reports on irregularities
- September 2013: UBS provides U.S. DoJ with information on FX allegations in the hope of gaining antitrust immunity if charged with wrongdoing
- October 2013: The investigation goes global: U.S. DOJ, UK FCA and BoE, and Swiss FINMA all open probes, with Hong Kong Monetary Authority cooperating
- By May 2015: 5 banks (Citicorp, JPMorgan Chase, Barclays, RBS, UBS) agreed to plead guilty and pay > \$2.5bn in criminal fines
- By August 2015: 9 banks, including HSBC, Barclays, BNP Paribas, Goldmach Sachs, have settled class action lawsuit and agreed to pay > \$2bn





# ... to Precious Metals

- E.g. Gold Fix is determined twice each business day of the London bullion market in USD, GBP and EUR at 10.30 am and 3 pm
- U.S DOJ and CFTC are investigating at least 10 major banks for allegations of manipulations
- Swiss Competition Authority announces investigation of 7 banks
- In April 2016, Deutsche Bank settled silver and gold price-manipulation suits in the U.S. District Court SDNY
- Class action in the U.S. ongoing



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# Reaction to Benchmark Manipulation

- 2013: G20 asked the FSB to undertake a fundamental review of major interest rate and foreign exchange benchmarks
- Official Sector Steering Group guided the work of the Market Participants Group (MPG)
  - Evaluating current benchmarks
  - Identifying feasible and viable alternatives  
(e.g. how to achieve contract renegotiation without legal risks?)
- 2014-2016: FSB issued General Principles, Recommendations and two Reports



# FSB Report (2016)

- Most progress has been made by the three major benchmarks of EURIBOR, LIBOR and TIBOR
- Two work streams are still ongoing
  - Reform of existing IBORs
  - Identification and promotion of alternative risk-free rates where appropriate
- «However, while substantial progress has been made, the reforms of the IBORs have not been completed. Administrators should now focus on transition and decide how to anchor rates in transactions and objective market data as far as practicable. The reforms proposed by the administrator of LIBOR will be implemented progressively during 2016; further, the administrator is conducting a feasibility study to centralise the determination of LIBOR. These reforms, if proposed and implemented, could have far-reaching implications for the rate and would not take place until 2017.»

*FSB, 21 July 2016 Report, p. 2*



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# Agenda

1

Joanna Perkins: The Reform of Key Interest Benchmarks – Progress and Challenges

2

George Handjinicolaou: ISDAfix - An Example of seamless Benchmark transition

3

Ed Murray: Recent benchmark-related litigation in England and US

4

Discussion

