

ISDA Efforts to Help Markets Deal With LIBOR Replacement Clear DOJ Hurdle

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On October 1, the United States Department of Justice (DOJ) issued a favorable business review letter to the International Swaps and Derivatives Association (ISDA) that clears the way for ISDA to complete its work on developing standard amendments to swap documents to account for the discontinuation of LIBOR and other interbank offered rates (collectively, IBORs).

Because of the global scope of the IBOR replacement problem, ISDA had been concerned that its work in developing standard document solutions could be perceived as promoting coordination among competitors. The DOJ letter alleviates those concerns: “Based on the information and representations you provided, after a thorough review, and for the reasons explained below, the Department does not presently intend to challenge ISDA’s proposed amendments to its standardized documentation. . . . The Department believes that ISDA’s proposal is likely to have substantial procompetitive benefits and that these benefits outweigh the possible anticompetitive effects.”

ISDA has indicated that it has also sought similar comfort from competition authorities in other jurisdictions. Assuming those inquiries have similar results, ISDA should be able to fulfill its previously announced intention to publish relevant documentation and accompanying protocols early in 2021.

The DOJ Press release is available [here](#).

The business review letter (and the ISDA request letter) is available [here](#).

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