Contractual Fallback

Status and Recommendation Document

1 Table of Contents

2 Introduction and Summary

The publication of IBORs (Interbank Offered Rate) commonly used throughout the world will be halted after 2021 and the reform will have broad effects on Banks, bank customers and service providers. It is foreseen that more than $400 trillion worth of IBOR contracts (loan and derivative) exist throughout the world and almost none of these contracts were prepared by taking into consideration the full termination of IBOR rates or with any provision related to a fallback suitable for changes bearing significant financial consequences unforeseeable by the parties. Contracts with maturity later than December 31, 2021 in particular are in uncertainty because of this deficiency and the fact that the calculations in contracts will change significantly will result in complex problems that the parties or courts will have to resolve.

Contractual fallback language that will determine the interest rate to be applied after IBOR rates are terminated is the first option for the resolution of such problems. As the fallback language in legacy contracts are usually far from meeting the requirements of the IBOR transition process, new provisions adapted/to be adapted into contracts as a result of negotiations between parties are very important for eliminating potential uncertainties and preventing disputes. However, attention should be paid to certain points when writing a contractual fallback language.

Furthermore, banks will have to carry out a comprehensive project for the transition process due to the number of contracts using IBOR rates with post-2021 maturities. In this process, an applicable interest rate for each contract and a method for implementing the rate should be determined. At this stage, contracts, products and transactions with post-2021 maturity should primarily be identified and an action plan should be prepared to implement an alternative interest rate suitable for them.

This report explains contractual fallback language articles and recommendations regarding transition projects.

3 The Meaning of Contractual Fallback and Overview

Contractual fallback language refers to the contract provisions that lay out the process of determining the interest rate to be applied if the benchmark rate (e.g., USD LIBOR) implemented under the contract cannot be achieved.

Fallback language consists of three main components: (i) trigger event, (ii) the new applicable interest and the relevant calculations and (iii) the adaptation and spread.

In assessing a fallback language, it is necessary to take into consideration the contract's maturity date, the parties' position in the contract, the debt to which the interest rate applies, the contract amendment provisions, the governing law and additional obligations that may arise therefrom and other important contractual provisions that may affect the IBOR transition including force majeure provisions.

A suitable fallback language is required to ensure smooth transition to a new interest rate if the interest rate used in a contract ends. A suitable language means a clear and easily applicable guiding provision and the provisions in legacy contracts were usually not designed to ensure this.

Fallback language in legacy contracts typically cover the case of temporary failing to reach the concerned rate rather than the possibility of an interest rate to permanently end. Also, as existing fallback languages do not contain any clear arrangements on determining the applicable fallback, they could lead to potential disputes.

In order to overcome this challenge, the ISDA (International Swaps and Derivatives Association) prepared fallback languages for “protocols under ISDA”, particularly for derivative contracts. Outside derivatives, certain sample contract articles prepared by the working group in the United States of America (ARRC, the Alternative Reference Rates Committee) and guiding documents in the European Union and United Kingdom are available.

4 Transition in New Contracts and Legacy Transactions/Contract

The IBOR transition strategy can be examined in two aspects: (i) readiness for transition to the alternative interest rates of legacy contracts and (ii) readiness to perform contracts, products and transactions with alternative interest rates, in other words, to new contracts and products. First, bank should define a clear transition strategy and roadmap for all legacy transactions or contracts maturity using IBOR rates with post-2021. The transition strategies should be duly determined depending on the relevant transaction, customer segment, contract type and provisions.

Second, to facilitate a smooth and orderly transition and proactively manage business and competition risks, bank should be able to offer new products, instruments and contracts using alternative interest rates in accordance with the developing market. To ensure that such interest rate is also not exposed to the risk of ending in a similar way in the future, such new products, instruments and contracts should also have due fallback language.

If new products, contracts or instruments still using IBOR are offered, such products, contracts and instruments should be offered in consideration of the fact that IBOR will end and should contain a suitable fallback language.

It will thus be suitable to systematically record the fallback language in legacy or new products, contracts and instruments. It will thus become easy to determine the interest rate applicable to various products, contracts and instruments after the interest rate expires.

In this context, potential issues to be taken into consideration in works conducted by banks can be summarized in 10 items as follows:

1. Participate in the works related to fallback conducted by the working groups of national, foreign and certain product groups.
2. Create draft fallback language suitable to the requirements of all contracts, products and instruments using IBOR rates and alternative interest rates.
3. Carry out works to create an infrastructure ready for the interest rate practice under the ISDA Fallback Protocol and the Supplements to the 2006 ISDA Definitions and implement fallback language similar to the ISDA provisions also in derivative contracts signed with persons not a party to the ISDA.
4. Identify all affected contracts, establish an inventory for those that reference IBOR and have post-2021 maturities.
5. Assess various fallback languages depending on contract and product type and customer segment and confirm that such provisions ensure suitable transition.
6. Assess potential legal, financial and procedural risks arising from the termination of the IBOR rates used in the contracts, take into consideration potential legal fallback languages and assess potential fallback language differences between derivative contracts and cash products.
7. Save up to nearly 75% in bank assets by developing digital solutions and establishing a system that can easily match contract types with draft fallback languages.
8. Create legal resolution, product transition, customer access and communication strategies depending on the fallback language, consent statements, product type and customer segment.
9. Systematically retain the fallback languages in contracts using alternative interest rates and record the path to be followed against potential terminations in the future.
10. Identify affected internal and third-party system and perform system updates to activate the fallback language if IBOR is halted.

5 Detailed Outlook on Contractual Fallback Language

As explained above, fallback language has three main components. The first is the trigger event that shows when to apply the fallback rate. This component should be clear to ensure that the parties have no different understanding on when the fallback rate is to be applied.

The second component is the interest rate which is the provision that specifies a reference rate and how to use it. It is important that these provisions clearly specify a reference rate or ensure it can be determined easily. Countries and regions have announced the recommended reference rates for their own currencies and examples are provided below for major announced rates:

- TLREF (Turkish Lira)
- AONIA (Australian dollar)
- CORRA (Canadian dollar)
- €STR (euro)
- HONIA (Hong Kong dollar)
- SARON (Swiss franc)
- SOFR (US dollar)
- SONIA (sterling)
- TONA (yen)

The third component is the spread decided to eliminate the difference between the IBOR rate applied to the contract and the fallback language. It is important to determine how this spread will be calculated and when it will be fixed. Although the spread will set the balance between the parties once it is fixed, it may lead to a value transfer to one of the parties in the next interest period. Considering that the publication of IBOR rates will end at one point, it is understood that spread fixing and therefore value transfer are compulsory elements. At this point, the parties should perform their analyses and mutually set an easily determinable time as the "spread fixing time".

These items and any other items in the provision should be clear to ensure a smooth transition with the fallback language to be determined. However, the concerned contract may include different provisions related to the fallback language. Some examples of such provisions are provided below and it should be taken into consideration that each contract may have different provisions and other related articles different from those specified in the examples below.

- **Maturity date:** As part of these provisions, contracts with post-2021 maturities should first be taken into consideration as the «fallback» regulation will most likely not have any practical consequences for contracts with maturity dates before end of the IBOR rates. However, in prioritizing this matter, it should also be considered that contracts with maturities before the end of 2021 could also have debts that stretch on until after the specified maturity.

- **Contract amendment:** The contract amendment procedure should be examined and whether the parties are authorized/entitled to make unilateral changes and if they are, the validity of such right should be taken into consideration. It should thus be kept in mind that there could be contracts where the transition can be made without fallback language negotiations.

- **Intended purpose of the benchmark:** The benchmark could be included in the contract for various purposes. These purposes should be examined and the fallback should be determined accordingly.

- **Force majeure:** The possibility should be taken into consideration that the end of the interest rate could be considered as a "force majeure" and the contract should be amended accordingly. This is because, if the end of the interest rate is defined as a force majeure in the relevant contract, an arrangement regarding the force majeure article should also be considered in the fallback amendment text related.

- **Governing law:** The requirements of the contract's governing law should always be taken into consideration.

- **The position of the parties:** The parties' obligations in the process of determining contractual fallback arising from their position and their other related rights and liabilities should be taken into consideration.

In taking these issues into consideration, the document referred to/categorized as "contract" by banks should be kept as broad as possible. For example, a commercial derivative confirmation may not always be referred to as a "contract" in the bank; however, all the following documents should be included in the IBOR transition process:

- Documents arranging transactions directly referencing IBOR rates,
- Documents with IBOR rates in related documents,

- Documents arranging intercompany transactions with the possibility of using IBOR rates,
- Documents managing services with the possibility of using IBOR rates (e.g., a bank managing products using IBOR rates).

Furthermore, all contracts and documents related to contracts using IBOR rates should also be taken into consideration as part of these contracts. This is because any change may affect another contract or document. In this context, clusters of related contracts and documents should be approached holistically.

6 Outlook on Common Cases Observed in Legacy Contracts

It is known that legacy contracts mostly do not cover the possibility of IBOR rates ending permanently. In this context, a sample provision containing arrangements that can widely be used is provided below:

"*Three-month LIBOR (specified as a percentage per annum) for deposits in US Dollars for a three-month period starting on first day of a Dividend Period refers to the rate displayed at 11:00 in local London time on the Reuters Screen LIBOR01 Page on the LIBOR Determination Date for that Dividend (Payment) Period.*

If such rate does not appear on Reuters Screen LIBOR01 Page, Three-month LIBOR will be determined on the basis of the rates at which deposits in United States dollars for a three-month period are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Calculation Agent.

If at least two such quotations are provided, Three-month LIBOR with respect to that Dividend Period will be the arithmetic mean of such rates. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted by three major banks in New York City selected by the Calculation Agent.

However, if fewer than three banks selected by the Calculation Agent to provide quotations are quoting, three-month LIBOR for that Dividend Period will be the same three-month LIBOR as determined for the previous Dividend Period."

At first glance, it is noted that the article is missing some "indispensable" elements for a contractual fallback language. The definition of trigger event in the article does not cover permanent cessation of the interest rate, the interest rate to be applied is not set forth clearly and no arrangement is made regarding the spread. Detail analysis of the article is provided below:

	Flow of the Problematic Article	**Explanation**
REFERANS FAİZ ORANI DEĞİŞİKLİK ŞELALESİ Benchmark Rate Replacement Waterfall	*If such rate does not appear on Reuters Screen LIBOR01 Page…*	**Trigger Event 1:** The trigger event is defined only as the rate not appearing on the Reuters screen and cases such as institutions making statements for «permanent cessation» or actually halting the announcement of the rates were not taken into consideration.
	…LIBOR will be determined on the basis of the rates at which deposits in United States dollars for a three-month period are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Calculation Agent.	**Benchmark replacement 1:** The method of receiving information from other banks was foreseen for the interest rate to replace LIBOR. Asking LIBOR rates from various banks will be practically difficult especially if LIBOR ceases. Therefore, this replacement rate has low applicability.
	If fewer than two quotations are provided…	**Trigger Event 2:** The Calculation Agent is unable to obtain sufficient quotes from the major banks in the London interbank market.
	If at least two such quotations are provided, Three-month LIBOR with respect to that Dividend Period will be the arithmetic mean of such rates. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted by three major banks in New York City selected by the Calculation Agent.	**Benchmark replacement 2:** Similar to the first benchmark rate, the method of obtaining information from other banks was foreseen. In the event of LIBOR cessation, this alternative will also have very low applicability; therefore, it will be inevitable to proceed to the next benchmark replacement steps.
	However, if fewer than three banks selected by the Calculation Agent provide quotations…	**Trigger Event 3:** The Calculation Agent is unable to obtain sufficient quotes from the three major banks in the New York market.

	However, if fewer than three banks selected by the Calculation Agent to provide quotations are quoting, three-month LIBOR for that Dividend Period will be the same three-month LIBOR as determined for the previous Dividend Period.	**Benchmark replacement 3:** Applying the previous LIBOR rate would result in a contract/transaction converting from a floating to a fixed rate instrument and the intended financial purpose of the chosen rate will not be achieved.

The problems in this analyzed article are common problems observed on the market and can be summarized as follows:

- Fallback language was not written to contemplate permanent benchmark cessation but covers temporary unavailability of the rate.
- The new interest rate is specified in a manner unforeseeable by the parties and even the process of determining it can take days and will be very difficult. The banks following the same process for each contract will result in a waste of time and resources.
- The existing fallback language on the market may result in different and incompatible arrangements among interconnected derivative and cash products.
- Different products and contracts using the same rate could have differing results. Therefore, disputes could arise due to differing results from different products and contracts, particularly from those signed between the same parties.
- Fallback language was not systematically registered and therefore, each contract will need to be examined separately.
- Particularly in contracts with more than two parties, there is the possibility of seeking the consent of most of the parties about the new rate. This process will also make it more difficult to determine the new rate and start the implementation.

In addition to these problems, contracts entitling one of the parties to determine the fallback rate and contracts that could result in clearly negative changes for at least one of the parties could also cause lawsuit risks.

7 Future Shaping of Contractual Fallback Language

In the light of the existing problems outlined above, a recommendation published the Financial Stability Board (FSB) and the Basel Committee about the transition process states that cooperation among actors in the relevant industries should be encouraged in order to develop fallback language.[ii] In this context, institutions established for specific products conducted studies. Although most of these studies do not directly include fallback language specifically applicable to the products, the protocol prepared by ISDA for derivatives and the draft provisions prepared by the Alternative Reference Rates Committee (ARRC) - the working group for the transition process in the United States of America - are important.

ARRC also published guiding principles and set forth four principles regarding contractual fallback.[iii] These principles are as follows:

- **Contract language evolution and moving from discretion to specificity:** Market participants may not wait for the sector to identify the "absolutely most robust language possible" and such identification may even not be made at all. Companies should work on a more robust language as soon as possible to minimize risks. However, the language may need to be changed over time as the sector standards develop. Although contract languages including flexible or discretion are suitable for following such changes, it is still recommended to set limited flexibility and discretion to minimize disputes.
- **Consistency Between Asset Classes as Appropriate:** Contract language should bear resemblance to "contract language in other asset classes and liabilities" as feasible and appropriate. Ensuring language consistency will help maintain alignment in outcomes and minimize the basis risk between the relevant products. Alignment between jurisdictions will minimize value transfer also in multi-currency loans.
- **Feasibility and Fairness of Implementation:** The contract fallback language should be operationally practicable in terms of design (i.e., its spread adjustments and term structures should be practically feasible in the systems). If a "suggested language" will be in question, feedback from a broad range of market participants should be taken into consideration to ensure it is feasible and fair, and the balances between the parties should be protectible to the extent possible. Fallback language should also try to minimize litigation risks and inspection risks by administrative authorities.
- **Rate, Spread and Term Structure Adoption:** The fallback language should explicitly allow for a spread adjustment to minimize valuation changes and provide adequate protections if any party is responsible for making spread adjustments. The contract fallback language should include specific triggers and effectively adjust the fallback rate and the mechanisms (e.g., spread, timing).

In consideration of these principles, ARRC published examples of fallback language related to floating-rate notes, bilateral business loans, syndicated loans, securitizations and residential adjustable-rate mortgages.[iv]

The elements of the draft language prepared by ARRC can be summarized as specified in the following table:

Trigger Event Description		Floating Rate Notes	Bilateral Business Loans	Syndicated Loans	Securitizations	Residential Adjustable-Rate Mortgages
Permanent cessation	Administrator of the benchmark issues a public statement announcing that will cease to provide the benchmark.	Yes	Yes	Yes	Yes	Yes

Trigger Event Description		Floating Rate Notes	Bilateral Business Loans	Syndicated Loans	Securitizations	Residential Adjustable-Rate Mortgages
	The regulator with authority over the administrator of the benchmark issues a public statement announcing that the administrator will cease to provide the benchmark.	Yes	Yes	Yes	Yes	Yes
Pre-Cessation Trigger	The regulator with authority over the administrator of the benchmark announces that the benchmark is no longer representative.[v]	Yes	Yes	Yes	Yes	Yes
	A certain percentage of underlying assets have been converted to the benchmark replacement or replaced by assets bearing interest based on the new rate.				Yes	
	The relevant laws or secondary legislation prohibit the use of the rate.					Yes
Early Opt-In	The borrower, the broker or the lender determine that the institution loaning [5] in USD is using the SOFR rate.		Yes	Yes		
	The lender declares that it has used the early opt-in right specified in the contract and notifies the borrower.		Yes			
	The administrative agent or the necessary lenders determine that syndicated loans in USD have adopted a new interest rate.			Yes		

Additionally, the following various types of interest rates are recommended:

Benchmark Replacement Waterfall		Floating Rate Notes	Bilateral Business Loans	Syndicated Loans	Securitizations	Residential Adjustable-Rate Mortgages
1	Forward-looking term SOFR + Spread adjustment	Yes	Yes	Yes	Yes	
	Term SOFR + Spread Adjustment (next longest tenor term from the first interest rate)		Yes	Yes		
2	Compound SOFR + spread adjustment (compounded average of SOFR depending on the relevant tenor)	Yes		Yes	Yes	
	Simple average SOFR + spread adjustment	Yes	Yes	Yes	Yes	

3	Relevant selected rate + adjustment (rate selected by the relevant government agency, lender, borrower / administrative agent)	Yes	Yes	Yes	Yes	Yes
4	Relevant ISDA replacement rate + spread adjustment	Yes			Yes	
5	Issuer or designated transaction representative rate + spread adjustment (in consideration of the rate accepted by the industry for FRNs)	Yes				
	Note holder replacement rate + spread adjustment					Yes
	Transaction specific replacement rate + spread adjustment				Yes	

Lastly, the accepted approaches regarding adaptation in the relevant sample provisions are summarized in the following table:

New Rate Adjustment		Floating Rate Notes	Bilateral Business Loans	Syndicated Loans	Securitizations	Residential Adjustable-Rate Mortgages
Hardwired Approach	ARRC selected spread adjustment	Yes	Yes	Yes	Yes	Yes
	ISDA selected spread adjustment	Yes	Yes	Yes	Yes	
	Other selected spread adjustment	Issuer/designee	Lender	Borrower/administrative representative	Designated transaction representative	Note holder
Amendment Approach	Relevant selected rate + adjustment (rate selected by the relevant government agency, lender, borrower / administrative agent)			Yes		

Examples are provided below for the points to take into consideration when using fallback language with the mentioned features and recommended by ARRC:

1. **Fallback Inconsistency Between Derivative and Cash Products:** Although "pre-cessation" trigger events were not included in ISDA's first works, such a trigger event definition was included in ARRC's works. It was decided to add a pre-cessation trigger event also in ISDA studies as a result of certain surveys in order to prevent any non-compliance.[vi]

   Although consistency was achieved in terms of trigger event definitions, the fallback rate foreseen for cash products can be implemented as periodic alternative rate and the fallback rate foreseen for derivatives can be implemented as overnight compounded alternative rate. Such discrepancies could lead to non-effective results in terms of hedge accounting and require readjustment in accounts.

2. **ISDA 2020 IBOR Fallbacks Protocol[vii] ("ISDA Protocol") Participation:** Participation to the ISDA Protocol will add fallback language only to currently-signed derivative contracts where both parties participate in the protocol. However, in many contracts the counterparty may not be a party to the ISDA Protocol and therefore the bank's participation in the protocol may not be sufficient. In such cases, the bank will have to encourage the counterparty to participate in the ISDA Protocol and if participation is not possible, it will have to hold negotiations. In the meanwhile, it will also be useful prioritize derivative contracts by taking into consideration counterparties, the nature of the products and potential risks.

3. **Amendment of Cash Products:** Amending some products will be very difficult and even impossible. For example, as consent will be required from all affected parties, the amendment of floating rate notes and securitizations could

be considered in this context.

If amendment is difficult, applying the current fallback language can also be preferred. However, such articles may lead to uncertain consequences, disputes and fixed-rate practices. In the recommended fallback language published regarding securitizations and floating-rate notes, ARRC stated that the rate should be determinable gradually and requested that "the rate should be determinable in all cases".[viii]

4. **Transactions With New Alternative Reference Rates:** The fallback language recommended by ARRC were prepared in the context of the cessation of the IBOR rates and with "fits all" perspective and may thus not include fallback language applicable for contracts referencing different rates. Banks should develop their own fallback languages particularly for new contracts using alternative rates.

8 Steps and Important Points in the Fallback Projects of Banks

8.1 Following Developments

Banks should participate in the works of national working groups and follow the publications of foreign working groups. They should also follow works specific to product groups (e.g., the works of ISDA and the Loan Market Association (LMA)).

8.2 Preparing Suitable Fallback Language

Banks should prepare a draft fallback language suitable for their own needs by taking into consideration the products and customer segments in contracts requiring amendment.

8.3 Preparing for ISDA

It is important to fulfill all the requirements, including the systemic ones to implement the fallback adjustments foreseen by ISDA for derivative contracts referencing IBOR. Fallback language works should be conducted in parallel with the ISDA provisions also for derivative contracts not directly subject to ISDA provisions in order to ensure sectoral consistency and compliance with the industry standards.

8.4 Inventory of Affected Contracts and Fallback Assessment

It is important in terms of transition projects to be able to understand which existing bank contracts will require new fallback language. Contracts with IBOR rates, which will cease until the end of 2021 or derivative contracts where all the parties are party to the ISDA Protocol will not have to be included in this scope.

During the process of the transition project, it will be useful for banks to review and systematically categorize all IBOR-based contracts through such distinction.

8.5 Confirmation that Prepared Articles Ensure Transition

The fallback languages finalized through negotiations with contract counterparties should be assessed by banks based on the relevant contract and product type and customer segment and they should confirm that such fallback language will ensure smooth transition.

8.6 Analysis of Risks

It is of great importance for banks to first determine the scope and risks of IBOR contracts during the transition process. These risks can be examined under the two items of financial and non-financial risks.

In assessing financial risks, all on- and off-balance sheet risks should be taken into consideration. Although transactions using IBOR provisions can easily be determined in the systems, it is also possible that not all risks can be understood in this way. For example, it is possible that non-expired guarantees and contracts with option rates cannot be automatically identified as “document containing IBOR” in the systems. It is therefore important to examine contracts comprehensively in order to understand the scope of financial risks.

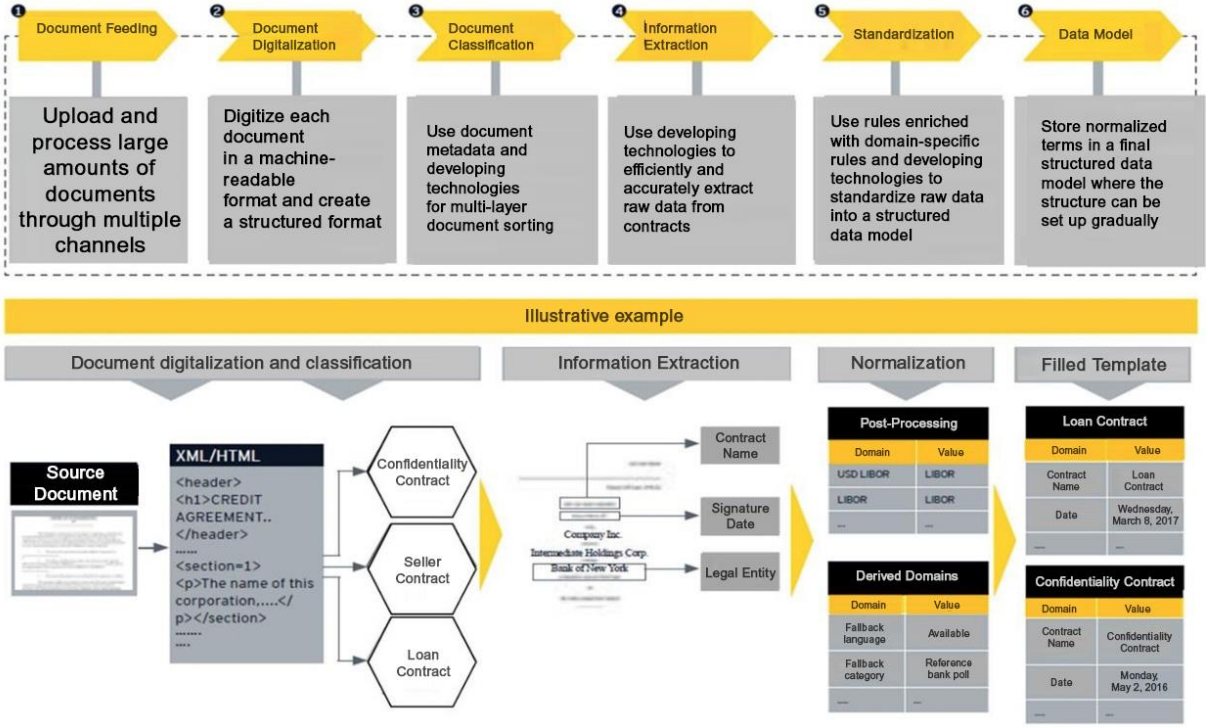
Other than financial risks, banks should take into consideration the potential effects of their position in their contracts. For example, if any bank is in the position of a portfolio manager or trustee in a contract, it may get additional obligations when the fallback language is determined. Potential litigation and implementation risks should also be taken into consideration at all times.

In analyzing risks, the segment of customers not a party to ISDA should also be taken into consideration and potential discrepancies between derivative contracts and their other contracts and products should also observed.

8.7 Utilizing Document Technology Means

Banks will have to carry out time-consuming works during the transition projects, such as identifying, affected contracts, developing strategies on how to amend such contracts, preparing documentations and holding negotiations. During this process, banks can save both time and resources by using a range of document technologies that allow for large volumes of contracts to be automatically identified and digitized, finding basic structured and non-structured data and partially or fully automating the re-assessment of contracts. The document technologies that can be used at this point include the following steps:

1. **Uploading documents:** Unsorted texts (e.g., Contracts, e-mails), data (e.g., Forms, tables) and spreadsheets are received through multiple channels and processed into the tool.
2. **Digitizing documents:** Non-searchable files (e.g., PDFs, JPEGs) are subject to pre-processing and optical character recognition (OCR) to be converted into searchable/machine-readable format. The files are converted into a standard format in consideration of their structurally identifiable texts and their locations within the file to ensure they can be analyzed.
3. **Sorting documents:** Documents are classified or tagged with a combination of metadata and developing technologies.
4. **Extracting information:** Raw data is extracted from documents using developing technologies.
5. **Standardization:** Extracted raw data is standardized to a data model that is structured according to the business logic.
6. **Data Model:** Standardized data is matched with the final structured data model. For example, when the phrase "Loan Contract" is matched with the category "Contract Name", the system could search for the phrase "LIBOR" in the title "Reference Rate Definition".



A system set up as mentioned above can be visually summarized as follows:

8.8 Creating a Communication Strategy

It will be a useful approach for banks to create legal resolution, product transition, customer access and communication strategies depending on the contractual fallback language, consent statements, product type and customer segment. Even when all the in-bank steps are taken regarding fallback, the IBOR transition cannot be completed before mutual negotiations are held in many contracts and the contracts are amended. It is possible that some customers are not aware of the IBOR transition process and thus not informed about why negotiations are held. Communication with customers is therefore of critical importance in contract transitions and it will be useful for banks to approach this matter with a specific strategy. As part of this communication strategy, technical documents should be prepared in accordance with the customer segment and care should be taken to ensure that information provided to customers are "clear, fair and not misleading". The communication strategy should aim to raise awareness in customers and a continuous communication strategy should be developed to ensure that customers have up-to-date information about the developments.

8.9 Systematic Retention of New Articles

Banks systematically recording both legacy contracts amended with fallback protocols and new contracts to be offered with alternative rates will be beneficial for banks as it will allow for quickly taking action in future cases of potential temporary or permanent cessation of alternative rates.

8.10 Identification of Affected Systems

The affected systems should be identified in the internal processes of banks and the relevant third parties and operational system updates should be performed to complete the transition process and ensure that the fallback language is practicable.

9 Annexes

9.1 Abbreviations

BMR	Benchmark Regulation (EU) 2016/1011'in (BMR)
FCA	Financial Conduct Authority
IBOR	Interbank Offered Rate
LIBOR	London Interbank Offered Rate

9.2 References

[i] Andreas Schrimpf, Vladyslav Sushko, "Beyond LIBOR: a primer on the new reference rates," BIS Three-Month Assessments, March 2019.
[ii] https://www.fsb.org/2020/07/fsb-and-basel-committee-set-out-supervisory-recommendations-for-benchmark-transition/
[iii] https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-principles-July2018
[iv] https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/LIBOR_Fallback_Language_Summary, ARRC later updated the concerned sample article with bilateral business loans: https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2020/Updated-Final-Recommended-Bilateral-Business-Loans-Fallback-Language-August-27-2020.pdf
[v] FCA announced on March 5, 2021 that except for a few tenors of the US Dollar LIBOR rate, LIBOR rates would either cease or no longer be representative as of December 31, 2021: https://www.fca.org.uk/news/press-releases/announcements-end-libor
[vi] https://www.isda.org/2020/05/14/isda-publishes-report-summarizing-final-results-of-consultation-on-pre-cessation-fallbacks-for-libor/
[vii] For the full-text of the protocol, ref. http://assets.isda.org/media/3062e7b4/08268161-pdf/
[viii] ARRC's recommendations on clearer fallback language in newly issued LIBOR-based floating-rate notes, ARRC, April 25, 2019

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