Response to ARRC Consultation on Private Student Loan Fallback Language

Question 1: Should fallback language for variable rate private student loans include a pre-cessation trigger (trigger 4(G)(ii))?

Answer: Pre-cessation triggers should be implemented if they are consistent across products, avoiding basis mismatch.

Question 2: Please indicate whether any concerns you have about a pre-cessation trigger relate to differences between such a trigger and those for standard derivatives or relate specifically to the pre-cessation trigger itself.

Answer: The lack of clarity around standard derivatives is a concern; we would emphasize that pre-cessation triggers have the potential to create basis mismatches.

Question 3: If a pre-cessation trigger is not included, what options would be available to market participants to manage the potential risks involved in continuing to reference a Benchmark whose regulator has publicly determined that it is not representative of the underlying market?

Answer: If LIBOR is deemed non-representative, but continues to be published, we would expect the language across all cash products to be consistent, so that market participants are not harmed by a basis mismatch.

Question 4: The variable rate private student loan language proposed uses simplified language in an effort to be more comprehensible for the consumer market. Is the simplified language proposed here appropriate, or are there concerns with the language not matching ISDA or other cash product language precisely?

Answer: We do not object to language that provides greater clarity to borrowers. Adjustments might be needed in circumstances where another cash product, like interest rate swap, requires standardized terms.

Question 5: Is the replacement index determined by the Federal Reserve Board, the Federal Reserve Bank of New York, or a committee endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York the best choice for the first step of the waterfall? Why or why not?

Answer: Yes. We feel comfortable with compound SOFR.

Question 6: As noted above, in addition to recommending SOFR, the ARRC may recommend forward-looking term SOFR rates if it is satisfied that a robust, IOSCO- compliant term rate that meets its criteria can be produced. If the ARRC recommends forward-looking term rates (e.g., 1-month, 3-month, 6-month, etc.) and a corresponding spread adjustment, should a spread-adjusted term rate be

the replacement index for variable rate private student loans, or would a spread-adjusted average (simple or compounded) of SOFR be more appropriate? Please provide support for your answer.

Answer: The replacement rate for forward looking term rates should be a spread adjustment. Averaging historical SOFR rates is not necessarily meaningful as we look to price forward looking rates. Forward looking term rates should have a spread adjustment that represents their respective term premiums, as determined by the market. The option that best meets these requirements is a spread-adjusted term rate.

Question 7: Should the Note Holder have the responsibility as the 2nd and last step of the waterfall? Why or why not?

Answer: Yes, as there does not appear to another third party that would have the ability to make this determination.

Question 8: Should the Note Holder have the ability to make adjustments (positive or negative) to the loan's margin to more closely approximate the LIBOR-based interest rate present at the time of replacement? Why or why not? If you do not believe the Note Holder should make adjustments to the loan's margin, and potential replacement indices diverge from the value of the current Index, what provision or step should be taken to preserve that consistency?

Answer: Yes, the noteholder should have the ability to make adjustments, with guidance from the ARRC or other governmental body.

Question 9: If the Note Holder is a trust, is there some entity other than the Note Holder that should be responsible for identifying the replacement Index if Step 1 of the waterfall fails? Please provide sufficient rationale for your answer.

Answer: The note holder would be responsible for making the adjustment to the replacement index.

Question 10: Will this language have unintended consequences not considered by the ARRC working group? If so, please explain and provide information about why this language would present challenges. If there are concerns with this proposed language, please be sure to specify if concerns relate to this proposed language, or to index replacement language in general.

Answer: To limit unintended consequences, we would emphasize consistency across products to avoid basis mismatch.

Question 11: Is there any provision in the proposal that would significantly impede variable rate private student loans originations? If so, please provide a specific and detailed explanation.

Answer: Anything that would cause a basis mismatch would significantly impede our ability to adopt a variable rate private student loan.

Question 12: Please provide any additional feedback on any aspect of the proposal.

Answer: N/A