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LIFE AFTER LIBOR

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WHAT IS LIBOR ?

- London Inter-bank Offered Rate
- Index or Reference Rate (different than the WSJ Prime Rate)
- “Risk Free Rate”
- “The rate at which an individual Contributor Panel bank could borrow funds, were it to do so by asking for and then accepting inter-bank offers in reasonable market size, just prior to 11.00 London time.”
- Panel Banks international in scope

WHY IS LIBOR IMPORTANT?

- Primary benchmark for short-term interest rates globally
- At least \$350 trillion in derivatives and other financial products tied to Libor
- Most of you also have deals tied to Libor
- Majority of US adjustable rate mortgages tied to Libor
- New commercial and consumer loans continue to be made based on Libor

A SMALL BIT OF HISTORY

- Libor came into widespread use in the 1970s as reference interest rate for transactions in offshore Eurodollar markets
- British Bankers' Association incorporated Libor into standards for interest rate swaps in 1984
- 2012 Rate Manipulation Scandal
- Oversight transferred from BBA to UK regulators
- Present concerns related to substantial increase in amounts tied to Libor while Libor referenced transactions decrease
- \$350 Trillion in transactions tied to \$500 Million in transactions

2021 PHASE OUT

- On July 27, 2017 the U.K. Financial Conduct Authority announced Libor will be phased out by year end 2021
- FCA will no longer compel Panel Banks to make Libor submissions after 2021
- Not attributable to any evidence of further wrong-doing
- Due to developments in the market that severely restricted inter-bank term borrowing to the degree that the number of "actual" transactions insufficient to meet IOSCO Principles
- Market assumption that regulatory and litigation risk will prevent Panel Banks from voluntarily reporting

ALTERNATIVE RATE

- US Fed convened the Alternative Reference Rates Committee (ARRC) in 2014 to assess alternative reference rate
- AARC recommended transition to the Secured Overnight Financing Rate (SOFR) in 2017
- SOFR based on US Treasury Repurchase (REPO) Market
- \$800 Billion in daily transactions
- Markets yet to fully embrace SOFR
- Term SOFR incorporating risk spread ?

SOFR VS LIBOR

	LIBOR	SOFR
Based on	Actual Transactions and "Expert Judgment"	Actual Transactions
Risk Reflected	Bank Credit Risk	Almost no Credit Risk
Term	Forward-looking	Backward-looking
As of 11/5/19	1.55% - overnight 1.77% - 30 day 1.97% - one year	1.58%

CONCERNS RELATED TO PHASE OUT

- Effect of discontinuance on Libor based loans maturing post-2021
- What will replace Libor as the benchmark short-term floating interest rate for commercial loans
- How will the replacement rate be implemented
- What will be the impact on Lenders of implementation of a replacement rate
- Potential liability

FALLBACK PROVISIONS

- Do post-2021 maturity date loans contain “Fallback” language?
- Is Fallback language intended to address Libor cessation?
- Is Fallback language workable?
- Is Fallback language enforceable?

FALLBACK PROVISIONS (LEGACY)

- Lender may select “comparable” index if Libor is no longer available
- Lender can select a “new” index based on comparable information if Libor unavailable
- Prime Rate

FALLBACK PROVISIONS (CURRENT)

- Lender [or Lender and Borrower] can designate new comparable rate if:
 - Adequate and reasonable means do not exist for ascertaining Libor (including non-temporary unavailability)
 - Libor administrator/regulator says Libor will cease or has ceased
- Determination by Lender that new or amended loans are incorporating a new benchmark interest rate to replace Libor [subject to negative consent of borrower]

TAKEAWAYS FOR EXISTING PORTFOLIO

- Libor Transition Team
- Educate and Train Loan Officers and Team Members
- Identify Libor based loans with post-2021 maturity dates and develop Strategy
- Develop and implement strategy for Amendments
- Use Amendment as opportunity to address Libor issue as well as opportunity to restructure or expand loan or relationship

TAKEAWAYS FOR NEW DEALS

- Monitor Developments / Join Industry Groups
- Keep 2021 Date in mind in structuring deals
- Develop acceptable Fallback Provisions, and:
 - Communicate to Loan Officers and Employees
 - Communicate to Deal Counsel
 - Establish process to ensure inclusion of Provisions
- Understand SOFR or other alternative rate adopted and be able to communicate benefits