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Recent key announcements and publications concerning the upcoming LIBOR transition

By Erik Schneider

Much has happened since our July 9, 2020, Corporate Trust Alert “*Latest on the LIBOR Transition Front*”¹ as the pace of market developments quickens in anticipation of the approaching December 31, 2021, LIBOR transition deadline. Below are some of the key announcements and publications since our last Alert that Corporate Trustees, Loan Agents, and Calculation Agents should be aware of:

- ARRC Releases **Conventions Related to Using SOFR in Arrears for Syndicated Loans** (7/22/20), which provides recommended conventions for both Daily Simple SOFR and Daily Compounded SOFR in arrears for Syndicated Loans.²
- ARRC Releases the **SOFR Starter Kit** (8/7/20) a set of factsheets regarding the transition from LIBOR to SOFR, related background information, and suggested next steps.³
- ARRC publishes **Transition Resource Guides for Adjustable Rate Mortgages and Private Student Loans** (8/18/20) guides to support transition from LIBOR to alternative rates, including SOFR.⁴
- ARRC releases a **Technical Reference Document** (8/27/20) to support previously released syndicated loans conventions. The reference document includes an in-depth discussion of different lookback and other calculation methodologies, including Daily Simple and Daily Compounded SOFR methodologies, with accompanying spreadsheets demonstrating sample calculations.⁵

¹ See [Nixon Peabody Corporate Trust Roundup](#), July 13, 2020.

² See “[SOFR “In Arrears” Conventions for Syndicated Business Loans](#),” (2020); and “[ARRC Releases Conventions Related to Using SOFR in Arrears for Syndicated Loans](#),” (July 22, 2020). See also the LSTA’s statement “[LIBOR: Conventions for Unconventional Thinking](#),” (July 22, 2020).

³ See “[ARRC Releases the SOFR Starter Kit](#),” (August 7, 2020).

⁴ See “[ARRC Publishes Transition Resource Guides for Adjustable Rate Mortgages and Private Student Loans](#),” (August 18, 2020).

⁵ See “[ARRC Syndicated Loan Conventions Technical Appendices](#).”

- ARRC releases **Updated Hardwired Fallback for Bilateral Loans** (8/27/20) updated recommended contract fallback language for new U.S. dollar bilateral business loans.⁶
- ARRC releases **RFP for Publication of Term SOFR** (9/19/20), a request for proposals seeking administrator to publish forward-looking SOFR term rates. Additional information is included in FAQs for Vendors published on 10/7/20 and 10/14/20.⁷
- LSTA publishes exposure draft of **LIBOR Replacement Provisions for Amendment of CLO Indenture** (10/2/20), which provides a template of substantive provisions to include in a Supplemental Indenture for CLO amendment to adopt ARRC fallback terms; publication of final form expected in November 2020.⁸
- ISDA launches the **IBOR Fallbacks Supplement and IBOR Fallbacks Protocol** (10/23/20), which will facilitate inclusion of the new fallbacks in existing non-cleared IBOR derivatives transactions between counterparties that both adhere to the protocol. ISDA intends the supplement and the amendments made by the protocol to take effect on January 25, 2021.⁹
- **A proposed legislative fix for legacy LIBOR contracts**¹⁰ was introduced in the New York State Senate on October 28, 2020. If enacted, it would seek to formally transition New York's markets to ARRC or Fed recommended rates for legacy LIBOR contracts. The bill is currently in committee and a floor vote is not expected until after the New York State Legislature reconvenes in January 2021. For more on this proposed legislation see our alert from the last Corporate Trust Roundup.¹¹

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

- Erik Schneider, 617-345-1112, eschneider@nixonpeabody.com
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⁶ See "[ARRC Releases Updated Recommended Hardwired Fallback Language for Bilateral Business Loans](#)," (August 27, 2020).

⁷ See "[RFP for Vendor to Publish Forward-Looking SOFR Term Rates](#)."

⁸ See "[LIBOR: The "Old CLO" Fix](#)," (October 5, 2020).

⁹ See "[Amendments to the 2006 ISDA Definitions to include new IBOR fallbacks](#)," "[ISDA Board Statement on the IBOR Fallbacks Supplement and Protocol](#)."

¹⁰ See [New York Senate Bill S9070](#) (October 28, 2020).

¹¹ See our alert, "[ARRC-proposed New York LIBOR Legislation: The Trustees' perspective](#)" (July 6, 2020).