

REVERSEinquiries

ARRC: LIBOR Hard Stop by December 31, 2020

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On May 27, 2020, the Alternative Reference Rates Committee (the “ARRC”) published its “Recommended Best Practices for Completing the Transition from LIBOR” (the “ARRC Recommendation”) and an accompanying fact sheet.¹ The ARRC Recommendation covers cash products, such as floating rate notes (“FRNs”), loans, securitizations and derivatives. This article focuses solely on the ARRC Recommendation’s effect on FRNs.

The ARRC Recommendation has several significant milestones:

- there should be no new USD LIBOR issuances after December 31, 2020;
- the ARRC’s recommended USD LIBOR fallbacks should be incorporated by June 30, 2020;²
- for FRNs that do not incorporate the ARRC’s recommended USD LIBOR fallbacks but instead include discretion to adopt a replacement rate, the anticipated replacement rate and any anticipated spread adjustment methodology should be disclosed no later than six months prior to the first interest reset date after USD LIBOR ceases publication; and
- third-party technology and operations vendors should complete all necessary enhancements to support the secured overnight financing rate (“SOFR”) by June 30, 2020.

The ARRC Recommendation applies to new issuances of FRNs with maturities after December 31, 2021, remarketing of existing FRNs, perpetual FRNs (floating rate preferred stock) and fixed-to-USD LIBOR FRNs and similar instruments, excluding securitizations.

The ARRC Recommendation applies to FRNs that directly refer to USD LIBOR, rather than instruments that may reference an index or rate that is indirectly linked to USD LIBOR, such as the constant maturity swap rate.³

Issuers with outstanding USD LIBOR FRNs with issuer or calculation agent discretion to choose an industry accepted replacement rate, which was a popular fallback prior to the publication of the ARRC’s recommended USD LIBOR fallback provisions, should review their FRNs to be aware of when they should announce to holders the rate that will be used to replace USD LIBOR, assuming a LIBOR cessation by December 31, 2021. They will also have to disclose any related spread adjustment methodology. These dates would have to be revisited if LIBOR ceases publication prior to that date.

¹ FINRA Regulatory Notice 20-18 is available at: <https://www.finra.org/sites/default/files/2020-06/Regulatory-Notice-20-18.pdf>

² The ARRC Recommendation is available at: <https://nyfed.org/2BcH51v> and the fact sheet is available at: <https://nyfed.org/2Zdq5jG>.

³ For a full discussion of the ARRC’s recommended USD LIBOR fallbacks, see our Legal Update at: <https://bit.ly/2NAhhil>.