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Commercial Lending Update

November 2021

Feds Remind Financial Institutions to Stop Using LIBOR by the End of Next Month

Last month, federal regulators reminded financial institutions that LIBOR ceases publication next month.

OCC. The OCC's Acting Comptroller Michael J. Hsu spoke at an Alternative Reference Rates Committee (ARRC) symposium where he stated that LIBOR cessation and replacement is an incredibly important issue facing the global financial system. Hsu warned financial institutions about being or becoming complacent in replacing LIBOR because inaction can have a profound negative effect on an institution's operations, safety and soundness. At this point, the OCC expects every bank to be executing upon a comprehensive plan to address the effects of LIBOR's cessation that is tailored to the bank's particular exposure to LIBOR under its current business model, risk profile and strategic plan. The full text of his speech is available at **https://www.occ.gov/news-issuances/speeches/2021/pub-speech-2021-110.pdf**.

ARRC. The ARRC recommends that all market participants act now to slow their use of U.S. dollar (USD) LIBOR and promote a smooth end to new LIBOR contracts by the end of the year. The ARRC suggests that the next six weeks be used to reduce use of LIBOR contracts, and continues to recommend adoption of its selected alternative, the Secured Overnight Financing Rate (SOFR) as a replacement rate. Refer to their announcement for more details at **https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20211013-arrc-press-release-supporting-a-smooth-exit-post-arrc**.

Federal Reserve. In an October 5, 2021 speech, Federal Reserve Supervision Vice Chair Quarles reminded institutions of the November 2020 Interagency Statement on LIBOR Transition (2020 Statement), which warned supervised institutions to stop making variable-rate loans pegged to LIBOR as a reference rate after December 31, 2021. In the 2020 Statement, federal banking regulators advised institutions that they will examine bank practices accordingly. In last month's speech, Quarles made it clear that LIBOR will not be available for any new contracts "just 86 days from now." Quarles said LIBORs' administrators will continue to provide USD LIBOR quotes until June 30, 2023 to allow many existing contracts to mature according to their terms, which significantly reduces the costs and risks of transitioning these contracts from LIBOR. If financial institutions were not provided USD LIBOR quotes after the end of the year, many banks would have had to renegotiate hundreds of thousands of loan contracts before December 31, an almost impossible task "just 86 days from now." **https://www.federalreserve.gov/newsevents/speech/quarles20211005a.htm**.

As of this Newsletter's publication on November 17, 2021, LIBOR is ending in just 44 days from now. Is your institution ready for its next examination? Has your institution stopped the new use of LIBOR? BCG's attorneys have been assisting members to transition from LIBOR. Contact Mark Aldrich or Joel Cook at **MAldrich@ABLawyers.com** or **JCook@ABLawyers.com** for transition assistance or with questions.

NCUA Publishes Final CAMELS Rule

The NCUA's final rule to update its CAMEL rating system to CAMELS was published in the Federal Register late last month (NCUA CAMELS FR). 86 FR 59282. The final rule adds the "S" (Sensitivity to Market Risk) component to the existing CAMEL rating system and redefines the "L" (Liquidity Risk) component. The NCUA intends for the new rating system to provide greater clarity and transparency regarding credit unions' sensitivity to these risk exposures. The NCUA said that separating the risks into distinct components allows examiners to evaluate market risk and liquidity risk separately and thereby reduce the potential rating inconsistencies. The agency also expects that the change from CAMEL to CAMELS will enhance the communication and monitoring among examiners and credit unions. The agency anticipates that an updated NCUA's rating system will be more consistent with the other financial institution regulators' ratings system both at the federal and state levels. The NCUA CAMELS FR is effective April 1, 2022.

Refer to the BCG April 2021 Newsletter for an article about the NCUA's proposed CAMELS rule which the agency adopted as proposed. Refer to Part Four, Section I.I. of SPM #17, *Managing Financial Institutions*, for an extensive discussion of the NCUA's CAMELS rating system. Contact Mark Aldrich or Joel Cook at **MAldrich@ABLawyers.com** or JCook**@ABLawyers.com** with questions.