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Are you Ready for the End of LIBOR? The Fed Issues Guidance on Assessing LIBOR Transition Progress - McGuireWoods

On March 9, 2021, the Federal Reserve in its Supervision and Regulation Letter (the **Letter**) provided guidance to Federal Reserve examiners and supervised institutions to assist in assessing progress in preparing for the LIBOR transition.

Specifically, examiners are directed to review the supervised institutions' "planning for, and progress in, moving away from LIBOR." Supervised institutions should note that examiners are encouraged to consider taking supervisory action if an institution is not ready to cease issuances of new LIBOR-based contracts by the end of 2021.

In the Letter, the Fed recognizes that the transition plans will differ depending on the institution's LIBOR exposure and have provided separate guidance for those with less than $100 billion in total consolidated assets (**Small Firms**) and institutions with more than $100 billion in total consolidated assets (**Large Firms**). The guidance for both Small Firms and Large Firms sets out considerations for examiners in six key areas:

- **Transition planning:** Institutions should have plans in place to transition from LIBOR and the detail and scope of those plans should be commensurate with its LIBOR exposures. Large Firms should ensure that their LIBOR transition plans are more detailed and include a governance structure that clearly defines roles and responsibilities needed to execute the plan.
- **Financial exposure measurement and risk assessment:** Institutions should accurately measure their LIBOR exposures and report those exposures to senior management. Large Firms should ensure that reporting is done frequently, and that the institution can identify the proportion of its LIBOR exposure that runs off before the relevant LIBOR tenor ceases (for more information, please see our earlier blog post). Large foreign firms should measure LIBOR exposures booked and/or managed within the U.S., and be able to quantify exposures within their U.S. operations in comparison to the exposures of the foreign parent entity.
- **Operational preparedness and controls:** Institutions should identify internal and vendor-provided systems and models that use or require LIBOR and, wherever possible, make adjustments to ensure smooth operation of those systems and models upon the cessation of LIBOR. A contingency plan should be established in the event that a service provider is unable to deliver a solution in a timely manner.
- **Legal contract preparedness:** All LIBOR-referencing contracts should be identified, and new LIBOR-referencing contracts should have robust fallback language that includes a clearly defined alternative reference rate. Institutions should determine the impact of LIBOR's cessation on their contracts and take steps to modify those contracts prior to LIBOR's cessation. For institutions that are large users of derivatives, adherence to ISDA's IBOR Fallback Supplement and Protocol should be considered.
- **Communication:** Institutions should communicate with all counterparties, clients, consumers and internal stakeholders about the LIBOR transition, and ensure compliance with all applicable laws

and regulations, and with the prohibition on engaging in unfair or deceptive practices. Large Firms should implement training for employees on the LIBOR transition, including how staff should communicate the implications of the transition externally.
- **Oversight:** Institutions should provide their LIBOR transition plans to management, and provide regular status updates to senior management. Foreign institutions with U.S. total assets exceeding $100 billion should provide status updates to the U.S. Chief Risk Officer and U.S. Risk Committee.

Based on this, supervised institutions should expect more scrutiny on their LIBOR transition plans in the upcoming weeks and months. Supervised institutions should ensure that they allocate sufficient resources and attention to their plans and be careful to ensure compliance with this guidance.

Please contact any of the authors of this briefing or your regular McGuireWoods contact if you have questions about, or would like assistance with, the LIBOR transition.

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