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## **LIBOR Legislation Bill Passed by New York State Legislature: McGuireWoods**

On March 24, 2021, the New York State legislature passed a Senate Bill (the **Bill**) regarding the discontinuation of USD LIBOR, which will cease in mid-2023. New York State Governor Andrew Cuomo signed the Bill into law on April 6, 2021.

The new law applies with respect contracts governed by New York law for which U.S. dollar LIBOR (**USD LIBOR**) is used as an interest rate benchmark. Similar to the version of the legislation that the ARRC originally proposed in March 2020, the final law, among other provisions, (i) prohibits a contract party from refusing to perform its contractual obligations or declaring a breach of contract as a result of LIBOR discontinuance or the use of the legislation's recommended benchmark replacement, (ii) establishes that the use of the ARRC-recommended benchmark replacement (which will be based on the Secured Overnight Financing Rate (or SOFR) is a commercially reasonable substitute for and a commercially substantial equivalent to LIBOR, and (iii) provides a safe harbor from litigation for the use of such ARRC-recommended benchmark replacement. The proposed legislation would not override existing contract language that specifies a non-LIBOR based rate as a fallback to LIBOR (e.g., the prime rate). For this reason, market participants have observed that the law may not have a significant impact on New York law-governed bilateral and syndicated business loans, which generally provide that if USD LIBOR is not available an alternate base rate (such as the prime rate or fed funds) will be used under such contract. In addition, because the law applies only to New York law-governed contracts referencing USD LIBOR, it will not affect contracts governed by the law of other states or countries or contracts referencing LIBOR for other currencies.

The law has been welcomed by market participants, as it reduces uncertainty and economic impacts surrounding the transition by providing a means of transitioning 'tough legacy' New York law contracts that do not include effective fallbacks.

The text of the legislation was presented by the ARRC in 2020, more details of which can be found in our [earlier blog post](#). The ARRC have endorsed Governor Cuomo's decision to sign the legislation into law, labelling it a "critical step in facilitating a smooth transition away from LIBOR". It remains to be seen whether federal legislation will be adopted alongside this New York State legislation, though the introduction of a draft discussion bill to the U.S. Congress in October 2020 suggests that such legislation could progress over the course of 2021.

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.

**By Donald A. Ensing, Barlow T. Mann, Jennifer J. Kafcas, Alvino S. van Schalkwyk & Harry Poland**

**April 15, 2021**

**McGuireWoods LLP**

