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Headlines for Alternative Lenders on LIBOR Replacement: McGuireWoods

The LIBOR Transition Continues

While Dec. 31, 2021 was a key LIBOR transition deadline for many lenders, the transition has continued in 2022 with alternative lenders in particular continuing to use the LIBOR tenors that will remain available until June 30, 2023. Lenders continue to explore different benchmark alternatives, from two- or three-part calculations for day one SOFR calculation to several emerging versions of "credit sensitive rates" that share operational similarities with LIBOR, which can have a material effect on the return on loans and negatively impact the efficiency of the capital markets. In multicurrency deals, the number of applicable benchmarks has multiplied, further complicating yield calculations. For more information, see "Banks Press Ahead with Term SOFR Preparation; Credit Sensitive Rates Under Scrutiny."

Hidden Costs of Reference Rates

Use of the LIBOR reference rates required a license with ICE Benchmark Administration (IBA), the administrator of the LIBOR reference rate. Replacement reference rates are likely to require a license with **each administrator of the applicable reference rate**. For more information, see "Banks Press Ahead with Term SOFR Preparation; Credit Sensitive Rates Under Scrutiny."

Beware Loan Documents Without Replacement Rates for LIBOR

The states of New York and Alabama have enacted laws with default benchmark rates for contracts governed by their state laws that do not include clearly defined or practicable LIBOR replacement benchmark rate provisions. A lender party to the rare New York or Alabama governed credit or loan agreement with LIBOR provisions but no default replacement rates for the LIBOR provisions could suddenly experience a drastic, unexpected change in the economics under that credit or loan agreement. For more information, see "LIBOR Legislation Bill Passed by New York State Legislature."

Key LIBOR Expiration Dates

All LIBOR settings have ceased, or will cease, to be provided by any administrator or no longer will be representative after:

- Dec. 31, 2021, in the case of all sterling, euro, Swiss franc and Japanese yen settings, and the 1-week and 2-month U.S. dollar settings; and
- June 30, 2023, in the case of the remaining U.S. dollar settings.

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