

Interest Rates Watch: LIBOR Transition – A Limited Legislative Solution

March 31, 2021

Welcome back to our Interest Rates Watch series, developed to provide timely updates and practical advice on developments related to interest rates and benchmarks on a regular basis. As always, we are here to help.

Background

What Happened?

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Why Did this Happen?

December 31, 2021

June 30, 2023

What Does the Legislation Do?

- applies only to New York law-governed USD LIBOR-based contracts: (i) without fallback language (whether the amendment or hardwired approach); or (ii) that include fallback language providing a fallback to last quoted LIBOR or to an alternative, LIBOR-based reference rate (such as a rate derived from taking a poll of participating banks and averaging the quoted rates)
- essentially writes in a “recommended benchmark replacement” so that, on the relevant deadline date, the contracts would automatically fallback to a SOFR-based replacement
- provides for a spread adjustment and conforming changes as recommended by the Federal Reserve Board, the FRBNY or the ARRC

What has Been the Reaction to this Legislation?

2

3

Implications for LIBOR Contracts

Recommendations

Type of Contract	Amendments Required?
Contract including ARRC-Recommended Hardwired Fallback USD LIBOR Discontinuation Language	No amendments necessary. NY LIBOR Transition Legislation will <i>not</i> apply
New York law contract without any fallback USD LIBOR Discontinuation Language	No amendments necessary. NY LIBOR Transition Legislation will apply
New York law contract with fallback or market disruption provision falling back to a LIBOR-based rate	No amendments necessary. NY LIBOR Transition Legislation will apply
New York law contract with market disruption provision or fallback to a benchmark replacement <i>not</i> based on LIBOR, such as the base rate or federal funds rate	Amendments to be considered unless parties are in agreement that existing fallback provisions are commercially acceptable. NY LIBOR Transition Legislation will <i>not</i> apply
All other fallback language (including amendment USD LIBOR discontinuation fallback language) in contract that is <i>not</i> governed by New York law	Yes – amendments necessary before January 1, 2022 or July 1, 2023 (as applicable) to replace USD LIBOR with a benchmark replacement
No fallback or market disruption language in contract that is <i>not</i> governed by New York law	Yes – amendments necessary before January 1, 2022 or July 1, 2023 (as applicable) to replace USD LIBOR with a benchmark replacement

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¹ <https://legislation.nysenate.gov/pdf/bills/2021/S297B>

² <https://www.lsta.org/news-resources/ny-state-legislating-libor-fallbacks/>

³ <https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2021/20210324-arrc-press-release-passage-of-libor-legislation>