

# FEDERAL AGENCIES URGE BANKS TO TRANSITION FROM LIBOR

The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (the federal agencies) are encouraging banks to transition away from U.S. dollar London Inter-bank Offered Rate (USD LIBOR) as soon as possible.

The Intercontinental Exchange (ICE), the organization that administers LIBOR, has announced that it intends to cease publication of one week and two month USD LIBOR settings after Dec. 31, 2021, and the remaining USD LIBOR settings after June 30, 2023. ICE previously only committed to publishing any USD LIBOR settings until the end of this year, and the sunset period is still subject to change. The planned cessation stems from concerns regulators and industry experts have about the robustness and sustainability of the process used to set LIBOR; the size of the market that uses LIBOR as a reference rate exceeds \$200 trillion, while the size of the interbank lending market used to calculate LIBOR is typically only about \$500 million per day.

In a joint statement issued on Nov. 30, 2020, the federal agencies warned that the failure to prepare for the transition away from LIBOR, either by using an alternative reference rate altogether, or by incorporating robust fallback language in any agreements with provisions referencing LIBOR, could undermine financial stability, safety and soundness, and pose significant risks related to consumer protection, litigation and the institution's reputation.

Decision makers at affected companies should be sure to conduct risk assessments on LIBOR exposure across its lines of business. Further, transition plans should be put in place that are commensurate with the size and complexity of the institution's LIBOR risk. Those with material LIBOR exposure should have a robust, well-developed transition plan, while smaller institutions or those that have limited exposure to LIBOR-referencing instruments may have less extensive, less formal plans. In any case, contracts and instruments executed between now and Dec. 31, 2021, should be made with the above directives in mind.

Our attorneys will continue to monitor for any further updates or developments on this issue. Please reach out to us with any questions or concerns you have about your LIBOR transition.

## PEOPLE

John L. Sullivan

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