

MEMO# 32540

June 18, 2020

LIBOR Update: SEC OCIE Issues Risk Alert on LIBOR Transition Preparedness

[32540]

June 18, 2020 TO: ICI Members
Accounting/Treasurers Committee
CCO Advisory Issues Subcommittee
Chief Compliance Officer Committee
LIBOR Transition Working Group
SEC Rules Committee
Security Valuation Operations Committee SUBJECTS: Compliance
Operations RE: LIBOR Update: SEC OCIE Issues Risk Alert on LIBOR Transition Preparedness

On June 18, the SEC Office of Compliance Inspections and Examinations (OCIE) issued a Risk Alert on its examination priorities related to LIBOR transition preparedness.[\[1\]](#) The Risk Alert reminds firms that OCIE identified LIBOR transition preparedness as an examination priority and provides additional information about the scope and content of those examinations.

Overview

In conducting LIBOR transition preparedness examinations, OCIE will review whether and how firms have evaluated the impact of LIBOR discontinuation on their business activities, operations, services, and investors (including customers and clients). The Risk Alert contains an appendix listing sample information requests that OCIE may use during examinations, including regarding firms' LIBOR transition programs, risk and exposure inventories, performance benchmarks, board materials, legacy contracts, guidance or recommendations to investors or others and information on affected vendors or IT systems. The full appendix of sample information requests is provided below.

OCIE also encourages firms to keep up to date on Alternative Reference Rate Committee (ARRC) developments and recommended best practices.

Appendix of Sample Information Requests

OCIE provides a sample list of information requests that it may use in examinations but cautions that the list should not be considered inclusive of the information that OCIE may request or review in any particular examination.

1. Information regarding registrant's organizational structure and business lines,

particularly regarding the individuals, positions, departments, and operations that may be impacted by discontinuation of LIBOR transition and transition to an alternative rate (collectively, the “LIBOR Transition”).

2. Information regarding any individuals or groups (e.g., internal committees, working groups, or transition teams) assigned responsibility to oversee or manage the effects of the LIBOR Transition on the registrant, including information regarding the frequency of any meetings on this topic and whether minutes are kept.

3. The identity of any third parties registrant has utilized or plans to utilize to assess the impact of the LIBOR Transition on the firm or its clients, customers, or investors (collectively, investors”).

4. Documentation or descriptions of any analysis performed to identify contracts or obligations held and/or issued by registrant or its investors that may be affected by the LIBOR Transition and any remediation plans thereof.

5. Documentation or descriptions of any performance composites or performance advertising that use a benchmark that could potentially be affected by the LIBOR Transition and any remediation plans thereof.

6. Information regarding any investors whose fee structure (e.g., performance-based fees) or performance reporting (e.g., use of LIBOR-linked benchmark) could potentially be affected by the LIBOR Transition.

7. Any written assessments, strategic plans (including remediation plans, as applicable), roadmaps, or timelines prepared by or for registrant regarding preparation for the LIBOR Transition, including the consideration of alternative reference rates.

8. Documentation of any risk management matrices or risk inventories of registrant that reference the LIBOR Transition, including a description of any LIBOR Transition-related vulnerabilities or exposure covered by the matrix or inventory.

9. Documentation or descriptions of any analysis performed to identify LIBOR-based risk or valuation models used by registrant, including information regarding changes that may be needed to account for a new reference rate, if any.

10. Materials referencing the LIBOR Transition provided to registrant’s board of directors, any committee of the board of directors, any board member, the board or board member(s) of any investors, or the board, legislative body or member(s) thereof of any municipal entity or obligated person client, if applicable, or equivalent governing bodies or offices, if registrant is not organized as a corporation.

11. Information regarding any third-party vendors registrant uses that may be impacted by the LIBOR Transition, including the services provided (e.g., back office) and how the vendor may be impacted.

12. Information regarding any LIBOR-linked contracts or obligations that extend past the current expected discontinuation date that are held and/or issued by registrant, including the implications and impact of any incorporated fallback language.

13. Information regarding any LIBOR-linked contracts or obligations that extend past the current expected discontinuation date that are held and/or issued by registrant’s investors,

including the implications and impact of any incorporated fallback language.

14. Information regarding any contracts or obligations held and/or issued by registrant, or its investors, that reference a rate identified as an alternative to LIBOR (e.g., SOFR).

15. Information regarding any changes made or planned to be made to registrant's information technology systems (e.g., accounting, investor reporting, risk, valuation or trading) to accommodate the LIBOR Transition, including any changes to accommodate new instruments/contracts and rates with features that differ from LIBOR.

16. Disclosures provided in registrant's filings with the Commission and/or to investors (e.g., in prospectuses) about the LIBOR Transition, including fallback language for LIBOR instruments, as applicable, during the period of January 2019 to the present.

17. Any guidance provided by registrant to employees or supervised persons concerning recommendations to investors to purchase, sell, or enter into LIBOR-linked instruments or contracts that extend past the current expected discontinuation date, reviews of portfolios containing such instruments, or the underwriting of new instruments referencing LIBOR, if applicable.

18. Any guidance provided by registrant to employees or supervised persons regarding the provision of advice to issuers of new LIBOR-linked instruments.

19. Any guidance provided by registrant to employees or supervised persons regarding the provision of advice to clients regarding the replacement of LIBOR in outstanding contracts or obligations with an appropriate alternative reference rate.

20. Any implemented or planned changes to compliance procedures, controls, or surveillance systems designed to monitor for LIBOR-linked instruments or contracts recommended or sold to clients.

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endnotes

[1] See OCIE Examination Initiative: LIBOR Transition Preparedness (Jun. 18, 2020), *available* at <https://www.sec.gov/files/Risk%20Alert%20-%20OCIE%20LIBOR%20Initiative.pdf>.