

MEMO# 33839

October 20, 2021

LIBOR Update: US Regulators Issue Updated Guidance on LIBOR Transition

[33839]

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TO: LIBOR Transition Working Group

SEC Rules Committee RE: LIBOR Update: US Regulators Issue Updated Guidance on LIBOR Transition

On October 20, 2021, the Federal Reserve Board (FRB), Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration, Office of the Comptroller of the Currency (OCC), and State Bank and Credit Union Regulators (collectively, the "agencies") issued joint guidance for their supervised institutions on an orderly transition from LIBOR.[\[1\]](#) The agencies caution that "contracts entered into on or before December 31, 2021, should either use a reference rate other than LIBOR or have fallback language that provides for use of a strong and clearly defined alternative reference rate after LIBOR's discontinuation."

The document notes the agencies' previous statements, including joint guidance from the FRB, FDIC, and OCC for banks to transition away from entering into new LIBOR contracts after December 31, 2021.[\[2\]](#) The agencies clarify that the term "new contracts" means agreements that:

- Create additional LIBOR exposure for a supervised institution, or
- Extend the term of an existing LIBOR contract.

The agencies explain that a draw on an existing agreement would not be viewed as a new contract.

The agencies also provide guidance on safe-and-sound practices for their supervised entities to assess whether alternative reference rates are appropriate for the entities' usage. Specifically, the agencies advise supervised entities to "understand how their chosen reference rate is constructed and be aware of any fragilities associated with that rate and the markets that underlie it."

The agencies counsel supervised entities to identify LIBOR contracts without adequate fallback language and to ensure that all new or updated contracts include fallbacks.

The agencies conclude that "[s]upervised institutions that take a comprehensive and proactive approach will be better prepared for transitioning away from LIBOR. Supervisory focus and review will continue to increase as the LIBOR cessation date approaches."

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endnotes

[1] See Joint Statement on Managing the LIBOR Transition (October 20, 2021), *available at* <https://www.federalreserve.gov/supervisionreg/srletters/SR2117a1.pdf>.

[2] See Statement on LIBOR Transition (November 30, 2020), *available at* <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf>.

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