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Insights

LIBOR Transition in the Final Weeks

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With the end date for the London Interbank Offered Rate (LIBOR) less than two months away (June 30, 2023), lenders and borrowers are busily revising their loan documents in anticipation of this deadline. Although a large proportion of legacy loans in the loan market still reference LIBOR, most new loans are utilizing a pricing index based on the Secured Overnight Financing Rate (SOFR), with some type of fallback language included. Credit spread adjustments, introduced to reimburse lenders for the difference between LIBOR and the replacement rate, also remain a negotiation point for lenders and borrowers to consider.

Thomson Reuters' Practical Law Finance analyzed 118 credit agreements that were publicly filed between January 1, 2023, and April 30, 2023, to survey market practice. Out of the 118 transactions analyzed:

- SOFR remains the preferred replacement rate for LIBOR, with 117 transactions basing the initial interest rate on SOFR. Only one deal opted for an alternative replacement rate (specifically, Bloomberg Short-Term Bank Yield rate (BSBY)).
- Term SOFR was the predominant rate used in new SOFR-based transactions (88 transactions identified Term SOFR as the initial interest rate while 24 transactions opted for both Term SOFR and Daily Simple SOFR). Five transactions selected Daily Simple SOFR as the initial interest rate, an increase from the prior four-month period.
- All transactions included some type of SOFR fallback language. Of the 112 transactions that identified Term SOFR (or Term SOFR and Daily Simple SOFR) as the initial interest rate, 82 transactions incorporated hardwired SOFR fallback language while 30 transactions followed the amendment approach (including a provision allowing the lender to require an amendment to the credit agreement adjusting the pricing indices based upon market developments and availability of indices).
- The loan market continued to see incorporation of a flat credit spread adjustment for all tenors of Term SOFR as well as spread adjustments of varying basis points.

The results referenced above as reported by Thomson Reuters' Practical Law Finance regarding publicly filed transactions are consistent with our firm's experience representing secured lenders regarding non-publicly filed transactions. If you have questions regarding the pricing index transition or appropriate documentation to effect such transition, please contact any member of the **Commercial and Real Estate Lending Practice.**

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