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ARRC Welcomes Passage of LIBOR Legislation by the New York State Legislature

Legislation Will Minimize Legal Uncertainty and Adverse Economic Impacts for Legacy LIBOR Contracts

The Alternative Reference Rates Committee (ARRC) welcomes action by the New York State Legislature to reduce risks associated with the transition away from U.S. dollar (USD) LIBOR by passing Senate Bill 297B/Assembly Bill 164B. This legislation will be crucial in minimizing legal uncertainty and adverse economic impacts associated with the transition—providing greater certainty to investors, businesses, and consumers as the financial system moves away from LIBOR. The text of the legislation was initially presented by the ARRC last year, and the ARRC commends Senator Kevin Thomas and Assemblyman Kenneth Zebrowski for leading efforts to pass the bill in New York State. The ARRC now looks forward to working with Governor Cuomo, who recognized its importance and included this proposal in his Executive Budget, and having it signed into law.

The bill's passage follows confirmation by LIBOR's regulator and administrator that it would cease publication of representative USD LIBOR for the major LIBOR settings in mid-2023. While the mid-2023 cessation date will address a substantial portion of legacy contracts, there will still be a significant portion of contracts that would mature after that, including those that have no effective means to replace LIBOR upon its cessation. The legislation addresses those contracts without effective fallbacks that are written under New York law, which is important because New York law governs many of the financial products and agreements referencing LIBOR. The legislation will provide legal clarity for these contracts and will lessen the burden on New York courts, as legal uncertainty surrounding the transition likely would have prompted disputes.

"The ARRC applauds the passage of its proposed legislation, which marks a major milestone in the transition away from LIBOR," said Tom Wipf, ARRC Chairman and Vice Chairman of Institutional Securities at Morgan Stanley. "Especially as we enter the home stretch for USD LIBOR, this legislation will address a key risk in the transition by providing a targeted solution for market participants who hold legacy contracts that have no effective fallbacks when LIBOR is discontinued."

About the ARRC

The ARRC is a group of private-market participants convened by the Federal Reserve Board and Federal Reserve Bank of New York in cooperation with the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of Financial Research, the Office of the Comptroller of the Currency, the Commodity Futures Trading Commission, the Securities and Exchange Commission and the U.S. Treasury Department. It was initially convened in 2014 to identify risk-free alternative reference rates for USD LIBOR, identify best practices for contract robustness, and create an implementation plan with metrics of success and a timeline to support an orderly adoption. The ARRC accomplished its first set of objectives and identified SOFR as the rate that represents best practice for use in certain new USD derivatives and other financial contracts. It also published its Paced Transition Plan, with specific steps and timelines designed to encourage adoption of SOFR. The ARRC was reconstituted in 2018 with an expanded membership to help to ensure the successful implementation of the Paced Transition Plan, address the increased risk that LIBOR may not exist beyond 2021, and serve as a forum to coordinate and track planning across cash and derivatives products and market participants currently using USD LIBOR.

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