SAUL EWING ARNSTEIN & LEHR LLP

Ten Key Takeaways From Saul Ewing Arnstein & Lehr's Recent LIBOR Webinar

LIBOR is going away on June 30, 2023. Although that may seem like a long time away, it's not too early to start planning for the transition away from LIBOR as the benchmark interest rate of choice. During the recent webinar "LIBOR Is Ending: What Do You Need to Know?", panelists from Saul Ewing Arnstein & Lehr and Ziegler discussed how issuers, lenders, borrowers and public finance professionals can prepare for the upcoming sea change in how floating interest rates are computed. Below are ten key suggestions from the webinar panelists for actions to be taken prior to LIBOR's demise:

1. Inventory and identify all of your existing LIBOR-based contracts and determine which of these contracts will (or may) extend past June 30, 2023.
2. Determine how the contract may be amended or modified to address any problems, and develop a remediation strategy, such as proactive negotiations between parties.
3. Make sure the contract incorporates effective fallback language, including appropriate spread adjustment provisions and trigger events.
4. Determine who will control the new reference rate for the contract, and if you have any say in that decision.
5. Determine if you can refinance or redeem if you don't like the new rate, and what penalties might you have to pay to do so.
6. If you are entering into a new LIBOR-based loan and intend to hedge that loan with a swap, make sure there is no disconnect between the fallback rate on the loan and the fallback rate on the swap, and understand the potential mismatch between the loan and a related swap and the potential basis risk.
7. Discuss with bond counsel, disclosure counsel or your dissemination agent if any contract changes would trigger a material event filing, or if you should submit a voluntary disclosure filing on EMMA regarding any contract changes away from LIBOR.
8. Consult with your finance teams if you are asked by lenders or derivatives counterparties to adhere to the ISDA Protocol or execute a bilateral amendment to update LIBOR fallback rates and when considering new LIBOR-based transactions.
9. In bank loans and direct placements, discuss with the bank/counterparty the replacement rate that will be used for your LIBOR contracts and request to review with the bank/counterparty any financial penalties that could occur.
10. Determine if the March 5, 2021 announcement by the FCA about the LIBOR transition creates a "Benchmark Transition Event" under the fallback language in your existing documents and, if so, what are the ramifications of a Benchmark Transition Event on the benchmark interest rate for your loan and any required spread adjustments.

If you would like more information on these and/or related topics in the industry, please contact our presenting attorneys:

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