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LIBOR Federal Legislation Takes Big Step Forward

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Federal legislation addressing the transition of legacy LIBOR contracts took a big step forward when it was included in the Omnibus bill passed late last night by the House of Representatives.

The bill would provide legal certainty for legacy contracts with inadequate or unworkable “fallback provisions” when USD LIBOR stops being published in June 2023. For contracts with no fallback for the LIBOR rate, the legislation would automatically impose a rate selected by the Federal Reserve based upon the Secured Overnight Financing Rate (SOFR). The legislation also includes a safe harbor against liability for parties with contractual discretion who choose the Federal Reserve’s SOFR-based rate to replace LIBOR.

The Federal Reserve has until 180 days after enactment of the legislation to issue regulations carrying out its provisions. Market participants are reminded that the legislation is a “safety net” for legacy LIBOR contracts that are not refinanced or amended to address the discontinuation of LIBOR. Regulators have made clear that they recommend proactive remediation of legacy LIBOR contracts.