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FCA Announces That USD LIBOR Is Not Representative



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The last publication of USD LIBOR on the basis of panel bank submissions occurred on June 30, 2023. As of July 3, 2023, 1-, 3- and 6-month USD LIBOR settings will be calculated using a synthetic methodology based on CME Term SOFR plus the relevant ISDA fixed spread adjustment. The UK Financial Conduct Authority (“the FCA”) **announced** that “as with other synthetic LIBOR rates, these settings are now permanently unrepresentative of the underlying markets they previously sought to measure.” The FCA is the regulator of LIBOR’s administrator, ICE Benchmark Administration.

While many legacy LIBOR contracts include fallback language that is triggered when LIBOR “ceases,” other contracts include fallback language that is triggered upon a public statement by the regulatory supervisor for LIBOR’s administrator announcing that the LIBOR “is no longer representative.” Starting in 2019, model fallback language with such a “non-representativeness” trigger has been published by the Alternative Reference Rates Committee (“ARRC”) for, among other products, adjustable rate mortgages, bilateral loans, floating rate notes, securitizations, syndicated loans and private student loans.

The FCA announcement also reminded market participants that the synthetic version of LIBOR is intended to cease at end-September 2024 and that all new use of synthetic USD LIBOR is prohibited under the UK Benchmarks Regulation.
