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After a long journey, tomorrow marks the end of the transition away from LIBOR.

But as we know, and as we've been reminded for the past few years by my colleague Lary Stromfeld, a market-leading legal voice on LIBOR transition, life without LIBOR won't look all that different than it does today. We're not back in 1999 when, as many of us remember, unfounded fears about Y2K nearly paralyzed our organizations' operations. As Lary tells us, the sun will indeed come out on Saturday. Be sure to read Lary's "Commencement Speech." I'm sure you'll enjoy it.

For those in the U.S. celebrating Independence Day on Tuesday, have a great Fourth of July weekend. Enjoy the barbecues, pool and beach trips, hikes and, of course, fireworks. Happy 247th birthday to our nation.

Daniel Meade
Partner and Editor, *Cabinet News and Views*

A LIBOR Commencement Speech

By **Lary Stromfeld**
Partner | Financial Regulation

The London Interbank Offered Rate (LIBOR) will stop being published on the basis of panel bank quotes and will be replaced by alternative replacement rates after June 30, 2023. In the spirit of the season, below is the commencement speech I would imagine giving.

LIBOR Commencement Speech
delivered by Lary Stromfeld on June 30, 2023

Ladies and Gentlemen, distinguished guests, ARRC members and, most importantly, the remarkable graduates of LIBOR.

Today we celebrate the culmination of your years of hard work, dedication, and the relentless pursuit of a bright future. You stand before us as the trailblazers, the pioneers, the vanguards of change. Your extraordinary efforts, expertise and unwavering commitment to excellence have shaped the evolution of an industry.

The story of LIBOR transition is not just one of numbers and rates; it is a testament to the power of cooperation, ingenuity, and resilience. But today, as we stand on the precipice of change, we must acknowledge that progress requires adaptation. The transition from LIBOR signifies the beginning of a new era, one that demands your continued leadership and vigilance. It is a call to action, a reminder that the skills you have honed over these several years will shape the future of global financial markets.

As we bid farewell to LIBOR, let us also bid farewell to the limitations of the past. Embrace this moment as a chance to reshape financial benchmarks for generations to come. The world awaits your brilliance.

May your journey be filled with personal fulfillment, professional success, robust fallbacks, and deep liquid markets.

Federal Reserve Releases Results of Stress Tests

By Daniel Meade
Partner | Financial Regulation

Yesterday, the Federal Reserve Board issued the aggregate and individual results of the supervisory stress test (also known as the Dodd-Frank Act Stress Test or DFAST, as these tests are required by Section 165 of the Dodd-Frank Act), which assesses whether banks are sufficiently capitalized to absorb losses during a severe recession.

The Federal Reserve stated that "the 23 large banks subject to the test this year have sufficient capital to absorb more than $540 billion in losses and continue lending to households and businesses under stressful conditions."

We can expect that over the next week, many banks will release securities filings with their stress capital buffer ("SCB") requirements under the Comprehensive Capital Analysis and Review ("CCAR"). The Federal Reserve is likely to publish all applicable banking organizations' SCBs during the third quarter. The SCB is driven by the DFAST results and is calculated by adding the maximum decline in each banking organization's common equity tier 1 ("CET1") ratio under the DFAST's severely adverse scenario plus four quarters of planned dividends. The minimum SCB is 2.5%. This is added to the 4.5% capital regulation minimum and any G-SIB surcharge or countercyclical capital buffer in place to show the total CET1 required.

The Bank Policy Institute ("BPI"), a leading trade association for large banks, released a statement regarding the release of the stress results. BPI noted that the results show large banks' resilience and stated: "[o]verall, the maximum decline in the aggregate common equity tier 1 capital ratio – a key metric in the test – decreased compared to last year's tests. This decrease will likely translate into modestly lower capital requirements for the banks subject to the test."

FATF Reports Lackluster Global Adoption of Cryptocurrency AML Requirements

By **Mercedes Kelley Tunstall**
Partner | Financial Regulation

The Financial Action Task Force ("FATF"), which is focused on leading global initiatives to tackle money laundering and terrorist financing, issued a report regarding the implementation of its recommended standards addressing AML concerns in the cryptocurrency space over the last four years. The report finds that "75% of jurisdictions assessed against the revised standards are only partially or non-compliant with FATF's requirements." The report describes many barriers to adoption of the FATF standards, including a lack of understanding of the cryptocurrency markets generally by many jurisdictions and the private-sector development of compliance tools that are limited in scope and that are not sufficiently interoperable to meet the FATF standards.

Meanwhile, the report highlights various concerns globally that are exacerbated by the lack of adoption of FATF requirements:

- North Korea's use of "sophisticated cyber techniques both to gain access to digital networks involved in cyber finance and to steal information of potential value" which is then used to steal funds and extort payments, in support of its weapons of mass destruction;
- An increase in the use of cryptocurrencies for terrorist funding by Al Qaeda and ISIL; and
- The growth of DeFi markets where "threat actors misuse DeFi services to engage in and profit from illicit activity, in particular ransomeware attacks, theft, fraud and scams, drug trafficking, and proliferation finance."

Federal Trade Commission Files Friend of the Court Brief in Equal Credit Opportunity Act Case

By Mercedes Kelley Tunstall
Partner | Financial Regulation

The Federal Trade Commission ("FTC") filed an amicus brief in a case before the Seventh Circuit that was brought on appeal by the Consumer Financial Protection Bureau ("CFPB") against a Chicago-area lender, Townstone Financial, for violations of the Equal Credit Opportunity Act (ECOA). In its original complaint against the lender, filed in the Northern District of Illinois, the CFPB alleged that the lender, through a podcast and radio show, "made statements about African Americans and predominantly African-American neighborhoods that would discourage African-American prospective applicants from applying" for mortgage loans. Judge Franklin U. Valderrama of the Northern District of Illinois issued an order that dismissed the ECOA count from the action, in response to a motion to dismiss filed by the lender. In the opinion accompanying the order, the court found that because the rule promulgating ECOA, Regulation B, contained an express prohibition of discouraging consumers, while the statute itself only prohibits the discouragement of applicants, the CFPB's basis for alleging an ECOA violation failed the Chevron test.

The FTC, which is also authorized to enforce ECOA and Regulation B, filed the amicus brief observing that the FTC "has decades of experience in monitoring credit markets for violations of ECOA and Regulation B and . . . has a strong interest in their proper application." In support of the CFPB, the FTC observed that the anti-discouragement provisions of Regulation B at question in the case have been settled for almost 50 years and that the language dates back to 1975, when Regulation B was initially written and promulgated. In addition, the FTC points to concerns that Congress initially had regarding the possibility of evasion of ECOA's requirements and its express directive in ECOA that necessary rules be promulgated "to prevent circumvention or evasion" of those requirements. To this point the FTC observed, "[i]f, as the district court held, ECOA and Regulation B apply only after an individual formally submits an application, creditors could bypass the statute's fair lending requirements entirely by preventing protected classes from applying for credit (through flagrantly discriminatory adverting, for example)." In conclusion, the FTC warns that if the district court decision is allowed to stand, then "consumers . . . after decades of protection – [would] be stripped of a pillar of Congress's promise of discrimination-free credit markets." The FTC's amicus brief joins briefs filed by several others, including the National Fair Housing Alliance and the National Consumer Law Center.