CADWALADER

FUND FINANCE FRIDAY

It's Official: Term SOFR Gets a Thumbs Up from ARRC

August 6, 2021 | Issue No. 138

By Leah Edelboim
Special Counsel | Fund Finance

In the last week we have had a very big development in the LIBOR transition: The ARRC has now formally recommended forward-looking Secured Overnight Financing Rate (SOFR) term rates. This is big news for your fund finance deal documents. While nothing will change in your documents immediately, here is a rundown of what the ARRC's guidance means for your deals.

First, any loan agreements that are being originated today based on LIBOR contain fallback language, and most deals contain the latest iteration of ARRC-recommended hardwired fallback language. If that applies to your credit agreement, it means that when the shift away from LIBOR occurs, you now can be certain that your deal will shift to Term SOFR, which is the first step in the waterfall.

The announcement also means that parties can feel comfortable originating a fund finance deal (or another type of business loan) based on Term SOFR. This is particularly important because the market is supposed to stop originating LIBOR-based loans at the end of this calendar year, and given that we are already into August, that will be here before we know it. We are already seeing some SOFR-first term sheets in the market, and we expect that trend to continue.

This is a big achievement in the transition, many years in the making. As noted by Randal K. Quarles, Vice Chair for Supervision of the Federal Reserve Board and Chair of the Financial Stability Board, in a July 29 statement, "Market participants now have every tool they need to transition from LIBOR." With this recommendation, parties can confidently move forward with a new benchmark, and they have certainty as to which benchmark their deals will fall back to when transition occurs.