

## FUND FINANCE FRIDAY

## ARRC Recommends Additional LIBOR Termination Language

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**By Jeffrey Nagle**  
Partner | Corporate Finance

The Alternative Reference Rates Committee ("ARRC") **recommended** contractual fallback language for U.S. dollar LIBOR-denominated **bilateral business loans** and **securitizations**. These recommendations follow the ARRC's **April 2019 recommended fallback language** for floating rate notes and syndicated loans.

The ARRC's recommended fallback language for *bilateral business loans* is similar to its recommendation for syndicated loans in that it offers both a hardwired and an amendment approach. The hardwired approach includes a "waterfall" for choosing a replacement benchmark and spread adjustment should LIBOR become unusable. The amendment approach includes a "streamlined" mechanism for selecting a replacement benchmark and spread adjustment. Additionally, the fallback language includes an option that recognizes the relationship between loans that implement a replacement benchmark and related hedging arrangements that are used to mitigate risks.

The ARRC's recommended fallback language for *securitizations* lays out a hardwired approach for triggering events and a waterfall for rate determination. Additionally, it addresses challenges concerning the securitization market's asset and liability components.

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The ARRC has now published recommended fallback language for all four classes of products on its task list: syndicated business loans, bilateral business loans, floating rate notes and securitizations. Borrowers, lenders, agents, issuers, underwriters, trustees and related parties should consider carefully whether, and in what form, the recommended fallbacks should be included in new issuances of these products. Floating rate notes and syndicated loans that include ARRC fallback language with minor modifications are already coming to market.

LIBOR may be ending as early as the end of 2021, and regulators are continuing to signal that market participants should be treating the transition with all deliberate seriousness. The ARRC and Cadwalader have published a **number of resources** in connection with the recommended fallback language and the upcoming transition process more generally.

Cadwalader served as drafting counsel to the ARRC in connection with the fallback language for all four product classes.