FinReg Round-Up
October 2021

Vol. 2 No. 5

Third quarter 2021 brought us more news related to the end of the London Interbank Offered Rate (LIBOR) and the first real-world moves toward use of its designated replacement, the Secured Overnight Financing Rate (SOFR), with one of the U.S. Big Three automobile manufacturers announcing a syndicated loan financing using SOFR and the CME Group's September release of its Term SOFR Reference Rates. In the area of small-business lending, the Consumer Financial Protection Bureau (CFPB) is seeking public comment on proposed rulemaking related to the requirements data collection lenders must meet under Dodd-Frank. Q3 also brought an attempt by the Conference of State Bank Supervisors (CSBS) to standardize money transmitter laws and rules with one set of model standards.

SOFR transition: Ford Motor Co. loan refinancing first to use SOFR; CME Group releases Term SOFR Reference Rates—license required

As the financial industry phases out the use of LIBOR, Ford Motor Co. recently announced it has secured the first syndicated U.S. corporate loan using the discredited benchmark's replacement, SOFR. At the same time, the CME Group recently released its Term SOFR Reference Rates, which have been endorsed by the Alternative Reference Rates Committee (ARRC).

Ford is refinancing three revolving credit facilities using SOFR, but to date, the leveraged loan market has yet to see the issuance of a new loan using SOFR, according to a Bloomberg report. Nevertheless, the automobile giant's move is groundbreaking and expected to pave the way for an influx of SOFR-backed corporate loans before LIBOR is discontinued at the end of the year.

LIBOR is the benchmark interest rate at which major global banks lend to each other. However, the discovery of a scheme involving multiple banks to manipulate LIBOR rates eroded the benchmark's credibility. LIBOR will be officially replaced by SOFR on June 30, 2023, on the recommendation of the ARRC and the Federal Reserve Bank of New York.

Ford is refinancing a $3.35 billion three-year portion, a $2 billion three-year portion and a $10.05 billion five-year portion through JPMorgan Chase & Co., Bloomberg reported. The company formally announced the refi deal in early September.

In other SOFR news, the CME Group released on Sept. 7 its Term SOFR Reference Rates, a daily set of forward-looking interest rate estimates, calculated and published for 1-month, 3-month and 6-month tenors. The CME Group said it plans to launch a 12-month tenor before the end of the year, pending approval from the Oversight Committee.

As the transition to SOFR accelerates, the Loan Syndications and Trading Association (LSTA) is reminding market participants that they will need a CME Term SOFR license if they plan to do more than simply look at CME Term SOFR and not use it for calculations. According to the LSTA, "Once a party does something with Term SOFR—like calculate interest, reconcile interest, determine CLO [collateralized loan obligation] note interest, etc.—it needs a license." The LSTA also noted that "there is no cost for a CME Term SOFR license for cash products through the end of 2026." The association is making available a number of resources related to the SOFR transition, including a podcast and slides on how to secure a CME Term SOFR license.

Public comment sought for proposed collection of small-business credit application data

The CFPB is seeking public comment on a proposal to implement small-business lending data collection requirements in Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. It issued a notice of proposed rulemaking on Sept. 1, which includes information on how to submit comments.

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act (ECOA) to require certain financial institutions to collect and report to the CFPB data regarding certain business credit applications. The section is intended to facilitate enforcement of fair lending laws and identification of business and community development needs and opportunities for women-owned, minority-owned and small businesses.

The CFPB's proposal would create a new data reporting system for financial institutions of all sizes that have initiated at least 25 small-business credit transactions in each of the previous two years. Covered credit transactions include loans, lines of credit, credit cards and merchant cash advances.

Covered financial institutions would be required to provide the CFPB with data in 23 different categories, including credit application information; amount approved or reasons for denial; applicant background including gross annual revenue, number of workers and time in business; and the sex, race and ethnicity of the principal owners.

In addition, the CFPB proposes that the final rule take effect 90 days after its publication in the *Federal Register*, with compliance required approximately 18 months after publication.

Comments must be submitted by Jan. 6.

New model money transmission law to replace state-based regulations is released

The CSBS released on Sept. 9 a model law to replace the 50 state-specific money transmitter laws and rules with one set of national standards and requirements.

The Uniform Money Transmission Modernization Act establishes a standardized regulatory framework for money transmission, including stored value, sale of payment instruments, and transmission of fiat and virtual currency. It applies to companies that offer digital wallets, prepaid cards, money orders, and cash or virtual currency transmissions, according to the CSBS.

The model law is designed to more effectively coordinate regulation, licensing and supervision of money transmission across states, protect consumers from financial crime, standardize the types of activities that are subject to licensing, and modernize the protection of customer funds in an environment that supports innovative and competitive business practices.

The model law is a result of discussions between state regulators and the nonbank financial sector that started under Vision 2020, the CSBS' state-driven initiative to streamline multistate licensing and supervision for nonbanks. The CSBS approved the model law on Aug. 9.

States that implement the model law will be better positioned to regulate new developments in a rapidly changing financial services market, CSBS President and CEO John W. Ryan said in a statement. Customers of money transmission companies will benefit from stronger, standardized consumer protections.

Related Professional

Anthony Pirraglia . . . . apirraglia@loeb.com

6788 REV1 10-26-2021