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ARRC Encourages Adherence to ISDA IBOR Fallback Protocol

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On August 19, 2020, the Alternative Reference Rates Committee (“ARRC”) updated its recommended Best Practices¹ in anticipation of the International Swaps and Derivatives Association Inc.’s (“ISDA”) upcoming IBOR Fallback Protocol, which is expected to be publicly available in the near future.² While the ARRC has consistently recommended that market participants adhere to ISDA’s protocol as a means of addressing the transition away from LIBOR with respect to derivatives contracts, the ARRC’s updated Best Practices encourage a subset of derivatives market participants, including regulated entities and other key market participants, to adhere to the IBOR Fallback Protocol “in escrow” (i.e., during the two-week period prior to the official launch date of ISDA’s protocol), which will result in the inclusion of such market participants on a list of early adherents announced when the IBOR Fallback Protocol officially launches. As noted in ISDA’s July 22, 2020 letter to the various Risk-Free Rate Working Groups, “[w]ide take up of this ‘adherence in escrow’ process will result in a broad and comprehensive list of adherents at the time the IBOR Fallback Protocol launches and thereby indicate to the market an expectation of wide usage of the new fallbacks.”³

When the ARRC originally released its recommended Best Practices in May of this year, adherence to the ISDA protocol was among the ARRC’s priority recommendations with respect to derivatives contracts. In the ARRC’s update to its Best Practices, the ARRC has added language stating that “[d]ealers and other firms with significant derivatives exposures are encouraged to adhere to the protocol during the escrow period in order to promote adoption on as timely a basis as possible.”⁴ Additionally, for all other market participants with legacy derivatives contracts that reference LIBOR, the ARRC has updated its Best Practices to encourage such market participants to adhere to ISDA’s protocol “within the 3- to 4-month period after [the protocol] is published and before the amendments to embed the fallbacks in legacy transactions take effect.”⁵

Market participants should carefully review and follow the updates to the ARRC’s Best Practices, which reflect the ARRC’s continued support of ISDA’s IBOR Fallback Protocol. ARRC Chairman Tom Wipf noted that the protocol “is crucial to ensuring that the derivatives market continues to function and that LIBOR derivatives contracts continue to perform through the transition away from LIBOR.”⁶ Also, in a recent letter to ARRC members, Chairman Wipf emphasized the need for market participants to adhere to ISDA’s protocol as promptly as possible, noting that “[w]idespread adherence to the IBOR Fallback Protocol is a vital step in the transition to more robust reference rates, and is essential to addressing both individual firm risks and systemic risks associated with the discontinuation of LIBOR.”⁷



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

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- ¹ "ARRC Recommended Best Practices for Completing the Transition from LIBOR," available [here](#) [hereinafter, "Best Practices"]. For more information about the ARRC's Best Practices, please see our recent publication, "ARRC Recommends Best Practices for Completing LIBOR Transition," available [here](#).
 - ² "ARRC Updates Best Practices to Encourage Adherence to ISDA Protocol During Escrow Period," available [here](#) (hereinafter, "Press Release"); see also "ISDA Board Statement on Adherence to the IBOR Fallback Protocol," available [here](#), which provides the background and support for the adherence to the forthcoming IBOR Fallback Protocol.
 - ³ ISDA's letter, "Re: Adherence to the ISDA IBOR Fallback Protocol," available [here](#).
 - ⁴ Best Practices.
 - ⁵ *Id.*
 - ⁶ Press Release.
 - ⁷ ARRC Chairman Tom Wipf's letter, "Re: Preparing to Adhere to ISDA's Protocol," available [here](#).

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