

[Securities Regulation Daily Wrap Up, COMMODITY FUTURES—CFTC issues no-action relief for transition away from LIBOR, \(Dec. 19, 2019\)](#)

Securities Regulation Daily Wrap Up

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The CFTC's DSIO, DMO, and DCR issued coordinated, time-limited, no-action relief for firms with swaps that will be transitioned from LIBOR to a new reference rate after 2021.

The CFTC's Division of Swap Dealer and Intermediary Oversight (DSIO), Division of Market Oversight (DMO), and Division of Clearing and Risk (DCR) will refrain from recommending enforcement actions to the Commission if firms with swaps transitioning away from LIBOR fail to comply with a wide swath of Commodity Exchange Act (CEA) provisions and CFTC regulations governing swaps. The relief was provided in response to a request from the Alternative Reference Rates Committee (ARRC) and in response to the U.K. Financial Conduct Authority's announcement that it will not require LIBOR panel banks to contribute to LIBOR after 2021 (CFTC Letter [No. 19-26](#), December 17, 2019; CFTC Letter [No. 19-27](#), December 17, 2019; CFTC Letter [No. 19-28](#), December 17, 2019).

The three no-action letters address different aspects of the swaps market, but despite this fact, the main text and footnotes explaining the varied requirements under each no-action letter suggest a few similarities. For example, the letters discourage alteration of the economic terms of swaps and other price-forming activity. Similarly, the DSIO and DCR letters caution against extending maximum maturities or increasing total effective notional amounts.

According to the letter issued by the DSIO, the necessary relief will encompass a number of swaps regulations. For example, relief will be extended regarding the swap dealer de minimis registration threshold, uncleared swap margin rules pertaining to legacy swaps, and the basis swaps method. Additional relief applies to the swap dealer conduct requirements, rules applicable to swap documentation and swaps processing (e.g., confirmation, swap trading relationship, and reconciliation), and end users (e.g., margin rules, eligible contract participants, and documentation).

The DMO likewise issued a letter granting ARRC-related no-action relief. Specifically, the DMO said it would not recommend the Commission bring an enforcement action if, until December 31, 2021, any person fails to comply with the trade execution requirement in CEA Section 2(h)(8) regarding an IBOR-linked swap that is amended or created by an IBOR transition mechanism, solely to accommodate replacement of an applicable IBOR with reference risk-free rates (RFR).

The DCR letter addresses uncleared legacy interest rate swaps (IRS), including legacy status (although the relief would not apply to voluntarily cleared swaps), and IBOR rates and permissible fallback amendments. The DCR said the latter item is limited to uncleared legacy IRS referencing USD LIBOR, JPY LIBOR, GBP LIBOR, CHF LIBOR, and SGD SOR. Moreover, with respect to the latter item, the DCR said additional relief is possible. With respect to the amendment process, the DCR noted that fallback amendments are not required and that a swap instead could be cleared or terminated. The DCR said the no-action relief would not apply to the trade execution requirement.

"Next year is going to be crucial for the transition away from LIBOR. Firms that fail to do so will put themselves and the global financial system at risk," said CFTC Chairman Heath Tarbert in a [press release](#). "The CFTC remains committed to working with market participants and our fellow regulators on this critical issue."

The releases are [Nos. 19-26](#), [19-27](#), and [19-28](#).

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