Securities Services Regulatory Insights

July 2022

LIBOR Transition – Are We There Yet?

Operational Resilience – Global Regulatory Developments and J.P. Morgan Industry Engagement

J.P. Morgan
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LIBOR Transition – Are We There Yet?

Non-USD LIBOR Transition – job done...almost

December 31, 2021 was a major milestone date in the LIBOR transition. It was the cessation date for four of the five LIBOR markets - Sterling, Yen, Swiss, and Euro LIBOR are now discontinued. Preparation for the event was not without significant effort but the cessation date itself came and went without market disruption. The vast majority of any outstanding contracts in those markets are now fixed to the designated fallbacks. Some work, however, remains to be done. In the case of Sterling and Yen, a portion of those contracts that are considered ‘tough legacy’ are fixed for a one-year period, through the end of 2022 to a synthetic LIBOR, which is calculated and published by ICE Benchmark Administration. Participants in those markets have until the end of this year to restructure and unwind the more complex trades or agree on an appropriate fallback. The European Commission was expected to issue implementing acts to designate replacement rates for certain Sterling LIBOR\(^1\) and certain Yen LIBOR\(^2\) in the first quarter of 2022, but publication remains pending at this time. On June 30, 2022, the UK Financial Conduct Authority (FCA) launched a consultation (CP22/11)\(^3\) on the transition away from the one-month, three-month and six-month sterling LIBOR settings and market participants’ exposure to U.S. Dollar (USD) LIBOR.

USD LIBOR Transition – a work in progress

The cessation date for USD LIBOR is June 30, 2023. The remaining USD settings will continue to be calculated using panel bank submissions until cessation.

Banking regulation in effect

U.S. banking regulatory guidance of no new LIBOR issuance beyond 2021 is now in effect\(^4\). This means that any LIBOR trading that is done now is for risk reduction purposes only. Certain new USD LIBOR contracts still could be issued in scenarios where a contract meets prescribed exception criteria of the Federal Reserve Bank (FRB), or a contract is written among nonbank parties that are not overseen by U.S. banking regulators.

The UK FCA has banned the new use of all USD LIBOR settings in the UK, but also allowed for certain exceptions\(^5\).

SOFR liquidity

In 2022, almost all of new business across products is now in the Secured Overnight Financing Rate (SOFR) with very little LIBOR trading. There were three SOFR First dates orchestrated in the OTC markets between July and November of 2021 for interest rate swaps, cross currency swaps in developed markets, and then swaps in caps and floors. These were by all accounts successful. At each of these dates, in the interbank markets, the dealers shifted the vast majority of their volumes from LIBOR to SOFR and then customer volumes followed soon after that. In its January 2022 newsletter\(^6\) the Alternative Reference Rates Committee (ARRC) stated, “SOFR now accounts for the majority of risk traded by LCH, and throughout 2022, syndicated loans have continued to move to SOFR. CME has also noted that SOFR trading activity “has increased dramatically to begin 2022, with... activity in SOFR futures and swaps surging relative to their Libor-based counterparts.”” Most recently,

\(^1\) British pound LIBOR – designation of statutory replacement rate
\(^2\) Japanese yen LIBOR – designation of statutory replacement rate
\(^4\) The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation Statement on LIBOR Transition – November 30, 2020
\(^5\) FCA Article 21A Benchmarks Regulation – Notice of prohibition on new use of a critical benchmark
\(^6\) ARRC Newsletter December 2021 – January 22
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Chicago Mercantile Exchange (CME) Group announced[7] that it will be launching 'SOFR First for Options', during the months of June and July to aid in the transition of the exchange-traded options market, which is one of the last major markets which needs to move away from USD LIBOR.

Legislative progress

US Federal Legislation

On March 15, 2022, U.S. President Biden signed into law the Consolidated Appropriations Act, 2022, which includes federal legislation, the Adjustable Interest Rate (LIBOR) Act (the Act), that provides a solution for legacy financial contracts tied to USD LIBOR. The Act provides clarity, prevents disruption, and creates safe harbors for the transition from USD LIBOR to SOFR for tough legacy contracts at USD LIBOR cessation on June 30, 2023.

Application of the Act does not depend upon what type of contract it is (e.g., a security, loan, mortgage, swap, etc.), but rather depends upon whether and how provisions in the contract deal with the replacement of LIBOR - the fallback provisions.

The legislation requires the FRB to issue regulations specifying SOFR based benchmark replacement rates no later than 180 days after the legislation becomes effective – expected publication in September 2022.

The UK Financial Conduct Authority

The Adjustable Interest Rate Act provides guidance only for USD LIBOR contracts negotiated under U.S. Law. For UK Law contracts, it is possible that the FCA may consider allowing legacy use of a synthetic version of USD LIBOR after June 30, 2023, assuming that a large number of contracts referencing USD LIBOR in the one-month, three-month, and six-month tenors are still outstanding at that time - but this has yet to be determined and the assumption should be made this will not be the case. Any decision on this is unlikely to occur in 2022.

Clearing houses

LCH Ltd (LCH) and CME have announced[8] initial plans to convert all outstanding USD LIBOR cleared swaps to SOFR-referencing Overnight Index Swaps just prior to June 30, 2023.

CME term rate

In light of the successful implementation of the first phase of SOFR First, the ARRC formally announced that a forward-looking term rate based on SOFR and published by the CME Group is an appropriate fallback to USD LIBOR and may be used for certain types of transactions. The CME Group is currently publishing one-month, three-month, and six-month tenors of CME Term SOFR. On May 19, 2022, the ARRC announced[9] its endorsement of the CME Group’s forward-looking twelve-month SOFR term rate for certain uses in line with its Best Practice Recommendations Related to Scope of Use.

[7] CME announces Options SOFR First Day
[8] LCH publishes consultation on converting cleared USD contracts; CME published consultation on converting cleared USD contracts
[9] ARRC Provides Update Endorsing CME 12-Month SOFR Term Rate
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Loans

As of January 1, 2022, the market is no longer permitted to use LIBOR in new loans per regulatory guidance. New loans are considered to include new facilities, refinancing of existing facilities or draws under uncommitted lines of credit. To date, this has been well adhered to, and the market has broadly adopted CME’s forward-looking Term SOFR rate. Existing committed facilities that are outstanding may continue to use USD LIBOR for calculation of interest up to June 2023. Focus is now very much centered on legacy population of facilities that reference USD LIBOR, and the remediation of these by means of (i) refinance (ii) amendment to modify the interest rate provisions from LIBOR to alternative benchmark, or (iii) amendments to agreements where there is no defined LIBOR fallback mechanism to a defined benchmark (i.e., ARRC hardwired fallback\(^\text{10}\)).

The next twelve months

While regulatory encouragement and bans have ended most issuance of new LIBOR-indexed contracts, the remediation of existing LIBOR-indexed contracts is still in process. The fourth quarter of 2021 saw intensified remediation activity among the settings that were scheduled to end in 2021. Market participants who had been slow to prepare managed to scale up their transition programs and make the December 31, 2022 deadline. Such last-minute races to the finish line are not likely to work as well with USD LIBOR remediation, because of the significantly greater volume of contracts.

One area of current market participant and industry focus is the transition of USD-linked Floating Rate Notes (FRNs). At the start of 2022, the ARRC’s Operations and Infrastructure (O&I) Working Group (WG)\(^\text{11}\) set out a program of work to create a centralized and harmonized process to communicate transition changes for FRNs. One of the objectives of the ARRC O&I WG is to have a workable solution in place in time to prevent a deluge of rate/term amendment communications all at once and in the eleventh hour. The key elements of the proposed process include:

- Data: Determine minimum data set required to communicate rate changes to investors and infrastructure providers (e.g., Middle Office, Fund Accounting, Back Office, etc.)
- Communication Protocol: Design solution framework for communication gateways from the Determining Parties to DTCC and ultimately to third party market reference data providers and onward to end-users

Implementation of a workable and effective end-to-end process to communicate key rate and term changes is critical for the success of the transition of USD LIBOR linked FRNs. Note, the ARRC has recommended that determining party communicate contract changes to the counterparty at least six months in advance of any LIBOR maturity\(^\text{12}\). With this recommendation in mind, the ARRC O&I WG aims to implement its proposed operating model no later than by the end of 2022.

\(^{10}\) ARRC Fallbacks

\(^{11}\) The ARRC’s Operations and Infrastructure Working Group was originally formed to identify key infrastructure and operational changes that need to be enacted in order to allow for a smooth, market-wide transition from U.S. Dollar LIBOR or to allow for the adoption and use of SOFR where desired across derivatives, cash products, and systems.

\(^{12}\) ARRC Recommended Best Practices for Completing the Transition from LIBOR
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J.P. Morgan Securities Services LIBOR Transition Program Update

As of year-end 2021, Securities Services:

- **New Risk-Free Rates (RFRs):** Completed work to establish operational readiness for the new alternative RFR transactions including:
  - Rates and Instruments: Updated systems and processes to incorporate the new RFRs and to support RFR-linked products (Floating Rate Notes, Bank Loans and OTC Derivatives)
  - Accruals: Enhanced accounting platform capabilities to calculate income accruals based on new methodologies (e.g., compounding in arrears; observation shift, etc.)
  - Valuation: Updated independent valuation methodologies to RFR-based discounting as applicable

- **Legacy Non-USD LIBOR Contracts:** Developed transaction processing models and partnered with clients and/or their third-party investment managers to successfully execute the asset class-specific transition of legacy Non-USD LIBOR linked products to new RFRs.
  - Cleared Swaps – Supported the LCH and CME conversions of trades referencing British pound (GBP), Swiss franc (CHF), and Japanese yen (JPY) LIBOR and Euro Overnight Index Average (EONIA)
  - Non-Cleared Swaps – Designed and developed systemic solution to fallback impacted contracts
  - Loans – Supported the repapering of deals and the rate re-fixes to the new RFRs

- **Client Communication and Engagement:** Kept clients informed of industry and regulatory developments as well as the progress of our LIBOR Transition Program through a series of webinars, briefings, one-to-one meetings and targeted outreach to clients who, for example, held positions in cleared OTC swaps that converted to RFR contracts in the second half of 2021.

In the first half of 2022, Securities Services:

- **Tough Legacy Non-USD Contracts:** Managed the inventory of client holdings in tough legacy Non-USD linked FRNs, loans and non-cleared swaps (held at December 31, 2022). Using this inventory of assets, organized according to their 2022 reset dates, ensured that each tough legacy holding was updated with an appropriate replacement rate.

- **USD LIBOR FRNs:** Engaged and participated with the ARRC Operations and Infrastructure Working Group to support the initiative to create a communications protocol to effectively enable Determining Parties and Issuers to notify the market of changes in rates/terms for USD LIBOR FRNs.

- **Regulatory Developments:** Closely tracked the legislative progress in various jurisdictions calibrating outcomes and/or potential outcomes and impacts to our LIBOR program and to our clients.

- **Non-Cleared Swaps and Loans:** Tracked rate resets and subsequent cash flows to ensure the proper RFR rate was applied.
LIBOR Transition – Are We There Yet?

Between now and the permanent cessation of USD LIBOR in June 2023, the Securities Services’ LIBOR Program will focus on the transition of remaining legacy LIBOR exposure. We anticipate the publication of:

- FRB regulations (off the back of the Adjustable Interest Rate Act) for tough legacy USD LIBOR contracts under US Law;
- Potential FCA action with regards to synthetic USD LIBOR for USD LIBOR contracts under UK Law;
- The FCA consultation on synthetic Sterling LIBOR; and
- Further announcements and consultation of LCH and CME planned conversion of USD LIBOR-linked cleared OTC swap positions

While the cessation of USD LIBOR is still nearly a year away, clients may wish to take inventory of their USD LIBOR holdings and:

- Assess opportunities to transition portfolios from LIBOR to SOFR. With respect to regulatory and market developments, there is little to no uncertainty left - the dates have been set, the fallbacks are in place, the products are available and liquid. Market participants will likely reach a point where they simply do not wish to manage an existing legacy portfolio of LIBOR derivatives, for example, alongside a growing portfolio of SOFR derivatives. They may also wish to avoid waiting and reaching the point where LIBOR liquidity becomes a real consideration.
- Begin the process to update project/action plans to manage transition-related activities for LIBOR holdings that cannot be easily transitioned (e.g., tough legacy) or which will be converted by clearing houses in the months just prior to cessation date.

Securities Services will continue to communicate with our clients sharing progress, notifying them of any anticipated challenges and informing them when we will again need to partner together to ensure a successful transition.
Evolution of Global Operational Resilience Regulatory Landscape

Operational resilience has been a focus area for regulators globally over the past several years, with high-profile cybersecurity incidents, IT systems outages, natural disasters, geopolitical events and a global COVID-19 pandemic highlighting the importance of being able to continue and quickly restore business services. This focus has been amplified by the global, interconnected nature of financial services.

While regulators may be using slightly different terminologies to define operational resilience, they have one common expectation towards the financial services sector: improved ability to withstand shocks in order to deliver critical services through sudden disruptions. As operational risk is inherent to the financial services’ business activities, a robust operational resilience framework is meant to enable financial firms (firms) to recover their critical services in the event of a business interruption. There is also acknowledgement by regulators that effective management of operational risk (across the individual risk management disciplines including cyber, technology, data, third-party outsourcing and business resiliency) leads to operationally resilient outcomes.

In the past, firms were by and large reliant on business continuity plans (BCP) and disaster recovery (DR) to deal with disruptions, and these were typically designed and performed on critical functions and systems within each organizational silo. Operational resilience regulations are changing this by requiring firms to approach business continuity of critical services on a holistic basis spanning across all supporting functions and assets (i.e. people, processes, technology, facilities and information). Operational disruptions and the unavailability of critical services have the potential to cause wide-reaching harm to consumers and/or risk to market integrity, threaten the viability of firms and cause instability in the financial system. Through implementation of robust operational resilience policies, regulators aim to minimize impact on market integrity, financial stability and consumers.

In a clear signal of growing importance of operational resilience, at the end of 2020 the European Central Bank (ECB), the U.S. Federal Reserve Bank and the U.K. Prudential Regulation Authority (PRA) committed to working together to ensure the implementation of well-coordinated supervisory approaches on operational resilience. While the world’s leading prudential regulators acknowledged that the financial sector had made progress in enhancing operational resilience over recent years, they highlighted that more remained to be done to ensure that firms are resilient to potential operational disruptions from all hazards which could pose risks to the wider financial system.

There has been evidence of concerted efforts to encourage international alignment and coordination of operational resilience policies and best practices, in order to reduce likelihood of conflicting requirements for firms operating in multiple jurisdictions. Leveraging lessons learned from the COVID-19 pandemic, in March 2021 the Basel Committee on Banking Supervision (BCBS) published its Principles for Operational Resilience (POR) which build on the BCBS principles for the sound management of operational risk, originally promulgated in 2003 and most recently updated last year. POR serve as the foundation and guide for regulators as they develop their own operational resilience approaches and various jurisdictions have been aligning their national policies to the BCBS standard. The Financial Stability Board (FSB) has also been driving greater convergence in practices related to cyber incident reporting and outsourcing/third-party risk management. Earlier

1 Also known as: important business services (UK), critical operations (US), critical or important functions (EU)
3 https://www.bis.org/bcbs/publ/d516.htm
4 https://www.fsb.org/2021/10/cyber-incident-reporting-existing-approaches-and-next-steps-for-broader-convergence/
this year, the European Systemic Cyber Group (ESCG) issued a recommendation to establish a pan-European systemic cyber incident coordination framework\(^6\). In the meantime, members of the G7 Cyber Expert Group are focusing on working together on addressing the escalating shared threat from criminal ransomware networks\(^7\).

Over the last two years, promulgation of operational resilience policy has gained substantial traction globally. New standards and consultations are continually being proposed across multiple jurisdictions, with impacts on a variety of firms including banks, assets managers, institutional investors, financial market infrastructures (FMI) and third-party vendors. Despite targeted efforts by the governments and regulators to facilitate international policy alignment, there are differences on a regional and national level in terms of how regulators approach operational resilience, and this inevitably poses challenges for firms with global operating models.

In this briefing, we discuss several key policy developments of relevance to J.P. Morgan and our clients as well as provide an update on how J.P. Morgan is engaging with the regulators and the industry on this important topic.

**United Kingdom**

Globally, the UK positioned itself as a pioneer as it considers operational resilience holistically (bringing together all disciplines and all threats) and other jurisdictions have been paying close attention to this approach. 2022 has been a pivotal year for the UK’s financial sector as after years of policy development and planning, firms now need to put into practice their work on operational resilience frameworks. In line with the Financial Conduct Authority (FCA)/Bank of England (BOE)/PRA rules on operational resilience\(^8\), by March 31st of this year, firms must have identified their critical services, set impact tolerances for the maximum tolerable disruption and carried out mapping and testing to a level of sophistication necessary to do so. In addition, firms must have identified any vulnerabilities in their operational resilience. As soon as possible after 31\(^{st}\) of March 2022, and by no later than 31\(^{st}\) of March 2025, firms must perform mapping and testing so that they are able to remain within impact tolerances for each critical service. Firms must also make the necessary investments to enable them to operate consistently within their impact tolerance.

Operational resilience of the FMI is another growing area of focus for the UK regulators. Given key dependency by financial firms on the FMI (central clearing counterparties (CCPs), central securities depositories (CSDs), recognized payment system operators (RPSOs) and specified service providers (SSPs), the Bank of England has recently published plans to bolster rules around **outsourcing and third-party risk management in FMI\(^9\)**.

As the UK’s financial services sector has been becoming increasingly reliant on cloud and other third-party providers (outside of the financial sector), the UK Government is considering legislation to support resilient outsourcing to technology providers. In June 2022, Her Majesty’s Treasury (HMT) published a policy statement\(^10\) announcing the intention to legislate a new **critical third-party regime** and indicating a forthcoming discussion paper from the UK regulators.

These initiatives undertaken by the UK authorities signal a shift in regulators’ expectations over operational resilience in financial services and their desire for continuity of critical services across the sector – regardless of the way they are delivered.

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\(^7\) [https://www.gov.uk/government/publications/g7-interior-and-security-senior-officials-meeting-on-ransomware](https://www.gov.uk/government/publications/g7-interior-and-security-senior-officials-meeting-on-ransomware)

\(^8\) [https://www.fca.org.uk/publications/policy-statements/ps21-3-building-operational-resilience](https://www.fca.org.uk/publications/policy-statements/ps21-3-building-operational-resilience)


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European Union

The EU policymakers have been cooperating with their counterparts globally and developing their own approach to operational resilience. In May of this year, the EU policymakers reached a political agreement on the Digital Operational Resilience Act (DORA) which has been going through the legislative process since it was originally proposed in 2020. DORA will codify in law requirements around Information and Communications Technology (ICT) security risk management and the management of third-party ICT providers that are, to some extent, already contained in a suite of guidelines produced by the EU’s supervisory authorities (ESAs). With the core aim of reducing ICT risk, the significance of DORA is that it harmonizes obligations for the financial institutions (almost all areas of financial services will be in scope) in areas mentioned above as well as the reporting of major ICT-related incidents and conducting threat-led penetration testing. Additionally, for the first time, there will be a direct oversight regime for the major technology providers to financial entities.

Similar to the UK and other jurisdictions, in the EU financial services sector there has been increasing use of cloud services over the recent years. In recognition of this, by the end of 2022 the EU-based firms are expected to adhere to ESMA’s guidelines on outsourcing to cloud service providers and ensure they meet the requirements related to: contractual terms with outsourced providers; information security; access and audit rights; sub-outsourcing; and supervision of cloud outsourcing agreements. Additionally, through its 2019 Guidelines on outsourcing arrangements, the European Banking Authority (EBA) enhanced its expectations for in scope firms in the context of cloud services and ICT risk. The European Insurance and Occupational Pensions Authority (EIOPA) also published its own guidelines on outsourcing to cloud providers in 2020. It remains to be seen how these existing regulations will interact with DORA in the context of practical implications for the firms as they operationalize regulatory requirements and take steps to ensure ongoing compliance.

In another key development, Ireland has become the first EU member state to set out a holistic policy on operational resilience similar to the one pioneered by the UK. By the end of 2023, the Irish financial sector is expected to comply with the Central Bank of Ireland’s Cross Industry Guidance on Operational Resilience CP140 published at the end of 2021. The guidance sets out how Irish-based firms should prepare for; respond to; and recover and learn from an operational disruption that affects the delivery of critical or important business services.

Asia Pacific

While in the jurisdictions such as UK regulators have been prioritizing operational resilience policies focused on critical services, in the Asia Pacific region strengthening of the ICT and technology risk management regulatory frameworks has been a key priority of the policymakers.

In Singapore, signaling importance of the technology risk management (TRM), in 2021 the Monetary Authority of Singapore (MAS) published revised TRM guidelines which set out technology risk management principles and best practices for the financial sector, to guide firms when it comes to establishing sound and robust technology risk governance/oversight and maintaining cyber resilience. Building on this, in April 2022 the Parliament of Singapore passed new laws which provided MAS with new powers to enforce technology risk management requirements for financial institutions. Most recently, in June 2022 MAS published revised Guidelines on Business Continuity Management (BCM) for firms in order to help them

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strengthen their resilience against service disruptions arising from IT outages, pandemic outbreaks, cyber-attacks and physical threats. The revised framework takes into account learnings from the handling of the COVID-19 pandemic and increased digitalization in the financial sector.

In addition to the focus on the ICT and TRM regulatory priorities, regulators in the Asia Pacific region have also been taking steps to align to the latest international operational resilience rules and best practices. Following a public consultation, in May 2022 the Hong Kong Monetary Authority (HKMA) published two sets of rules18 - new guidelines on operational resilience and revised guidelines on business continuity planning - which essentially transpose BCBS’s POR issued in March 2021. Prior to this, in 2021 the Securities and Futures Commission (SFC) also published a circular and a report on operational resilience and remote working19, with standards and guidelines for implementation of an effective operational resilience framework.

In Australia, the Australian Prudential Regulation Authority (APRA) has continued to uplift its standards for the financial services sector by: implementing enhanced information security framework CPS 234 in 2019; establishing an Operational Resilience Unit in 2020; ensuring operational resilience forms part of its 2021-2022 policy priorities with a consultation on operational risk management envisaged for 202220. A software upgrade leading to a day-long outage of the Australian Securities Exchange (ASX) in 2020 also prompted the Australian Securities and Investments Commission (ASIC) to review and eventually upgrade standards on technological and operational resilience. Subsequently, in March 2022, ASIC published a set of rules21 (commencing from March 2023) introducing additional obligations on market participants and operators in relation to technological and operational resilience; reinforcing the broader regulatory focus on deterring inadequate systems and operational governance and controls; seeking to create greater alignment with international standards and other domestic standards.

United States

In the US, regulators are taking steps to modernize their guidance on operational resilience, with US federal regulators publishing a joint paper outlining sound practices to strengthen operational resilience, and the Securities and Exchange Commission (SEC) publishing proposed cybersecurity risk management regulation and increasing focus on operational resilience through examination.

On October 30, 2020, the US federal banking regulators22 issued guidance23 (the Guidance) on sound practices for the largest US banking organizations to strengthen their operational resilience, including with respect to cyber risk management. The Guidance describes seven categories of sound practices that US banking organizations may use to strengthen and maintain their operational resilience: governance, operational risk management, business continuity management, third-party risk management, scenario analysis, secure information system management, and surveillance and reporting. The Guidance was drawn from existing regulation, guidance, statements and is largely consistent with the BCBS final Principles for Operational Resilience24.

22 The US banking regulators are the Board of Governors of the Federal Reserve System (“Federal Reserve”), Office of the Comptroller of the Currency (“OCC”), and Federal Deposit Insurance Corporation (“FDIC”)
23 https://www.federalreserve.gov/newsevents/pressreleases/bcreg20201030a.htm
24 https://www.bis.org/press/p200806.htm
More recently, the SEC promulgated proposed new cybersecurity risk management regulations for:

- Public companies\(^{25}\) - the proposed rules would require each public company to report material cybersecurity incidents within four business days after determining that it has experienced such incidents, provide periodic updates of previously reported cybersecurity incidents, describe its cybersecurity risk management policies and procedures, disclose its cybersecurity governance practices and disclose cybersecurity expertise on the board of directors;

- Registered advisers and funds\(^ {26}\) - the proposed rules would require advisers and registered funds to complete written cybersecurity risk assessments, develop certain cybersecurity policies and procedures, and implement cybersecurity incident reporting and cyber incident record-keeping.

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\(^{25}\) [https://www.sec.gov/rules/proposed/2022/33-11038.pdf](https://www.sec.gov/rules/proposed/2022/33-11038.pdf)

\(^{26}\) [https://www.sec.gov/rules/proposed/2022/33-11028.pdf](https://www.sec.gov/rules/proposed/2022/33-11028.pdf)
J.P. Morgan Industry Engagement and Regulatory Advocacy

J.P. Morgan is committed to providing high quality and operationally resilient services to best serve our customers, clients and communities. As the operational resilience regulatory landscape continues to evolve, we recognize that not only we need to meet our own obligations, but in some instances, we have a role to play in supporting our clients in helping them meet their regulatory requirements.

Given the interconnectedness of the financial services sector, international coordination and engagement among multiple stakeholders including governments, regulators, banks, investment managers, institutional investors, FMIs, and shared utilities is critical to supporting consistent implementation of operational resilience policies and frameworks. To this point, fragmented regulatory regimes and approaches pose a fundamental challenge for the efficient management and mitigation of risks across operational resilience.

In light of the continued regulatory and industry focus on operational resilience, and the need for international coordination and engagement across the entire sector, J.P. Morgan has been engaging globally with the industry and policymakers on relevant legislative and regulatory developments.

For example, J.P. Morgan has been actively working with the industry associations globally, including the Institute of International Finance (IIF), Global Financial Markets Association (GFMA), Securities Industry and Financial Markets Association (SIFMA), Association for Financial Markets in Europe (AFME), Asia Securities Industry & Financial Markets Association (ASIFMA) and Association of Global Custodians (AGC) across a number of regulatory consultations and proposed policies discussed earlier in this briefing.

J.P. Morgan’s engagement in industry and regulatory discussions in the U.K. is an example of our focus on this topic. Following the publication of the Operation Resilience discussion paper by the UK authorities (BoE/PRA/FCA) in 2018, J.P. Morgan worked with industry peers and the UK authorities to help shape an effective and comprehensive implementation of the policy objectives within that discussion paper. J.P. Morgan’s initial response to the discussion paper was to conduct pilots across a number of business areas at J.P. Morgan in order to provide practical experience of implementing the new concepts in the discussion paper, such as important business services and impact tolerance. J.P. Morgan provided feedback both directly to the UK authorities and indirectly via the trade association UK Finance on the 2018 discussion paper and consultation papers that followed in 2019.

Following the initial pilots and acknowledging the benefits of the UK’s authorities’ holistic approach to operational resilience, in 2020 J.P. Morgan expanded its implementation of the BOE/PRA/FCA operational resilience standards to a firm-wide initiative. That resulted in J.P. Morgan being well positioned to accommodate the final BOE/PRA/FCA operational resilience policy published in March 2021, as well as the updated BCBS POR that were published around the same time as mentioned earlier in this briefing.

Beyond policy setting, the effective implementation of operational resilience requires a collaborative approach involving both the public and private sectors to establish common guidelines, standards and solutions. The primary vehicle for such collaboration in the UK is the Cross Market Operational Resilience Group (CMORG) which is co-chaired by the Bank of England & the UK Finance. J.P. Morgan is a standing member of CMORG and co-chairs a number of the CMORG sub-groups including the Chief Information Officers’ Forum and the Sector Exercise Group.

J.P. Morgan is also actively participating in the market-wide and industry-sponsored resilience testing exercises - for example, the annual SIFMA resilience test for member firms and key financial market infrastructures in the US; and in the
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UK, the Sector Simulation Exercise (SIMEX), which was last hosted in 2018 and is next planned for the fourth quarter of 2022.

In the context of our engagement on cybersecurity at an industry level, J.P. Morgan is a leader in the Financial Services Information Sharing & Analysis Center (FS-ISAC), which is an intelligence-sharing cooperative for the financial services sector. In the US, our firm has also helped to drive the creation of the Analysis and Resilience Center (ARC) for Systemic Risk, which is an industry-funded non-profit organization whose mission is to increase the resilience of the systems that underpin the US financial services sector. J.P. Morgan is also a leader in the Cyber Risk Institute (CRI), a non-profit industry coalition that promotes enhancing cybersecurity and resilience through standardization. The CRI maintains the Cybersecurity Profile (FSP) tool used by firms to benchmark their cybersecurity and resilience capabilities.

Close focus by the regulators and the financial services industry on operational resilience is here to stay for the foreseeable future given the evolving cyber risk landscape, geopolitical environment, pace of innovation and technological development and climate change. J.P. Morgan will continue to monitor and engage in the regulatory landscape on operational resilience as well as collaborate with the governments, regulators, peers in the marketplace, clients, FMI’s and third-party vendors to ensure that we as a firm, and the wider industry, are coordinated in the collective effort to evolve and enhance operational resilience best practices and frameworks.
## Contributors

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