MEMBER SPOTLIGHT

Rep.David Scott (D, GA-13)

Congressman David Scott represents Georgia's 13th Congressional District, which includes 6 counties around metro Atlanta. He is currently serving his ninth term in the United States House of Representatives.

Before coming to Congress, he served in the Georgia State Senate from 1983 to 2002 and the Georgia House of Representatives from 1975-1982. Rep. Scott also started his own advertising business upon earning his MBA from the Wharton School of Finance at the University of Pennsylvania.

In Congress, Rep. Scott serves on the House Financial Services Committee where he works on two Subcommittees: Consumer Protection and Financial Institutions and Investor Protection, Entrepreneurship and Capital Markets. He also serves on the Agriculture Committee.

Only two years remain until the likely cessation of Libor. Since a shift in market structure of this magnitude has never occurred before it is widely considered the biggest challenge currently facing global financial markets. What is your biggest concern about the Libor transition?

We are racing against the clock to execute an enormous shift in our financial system, one that will undoubtedly impact trillions of dollars in financial products and contracts. Our regulators and industry stakeholders have taken important steps to identify the areas of greatest concern and install mitigation practices. And as with any impeding change, we must have certainty and confidence in the process to the greatest extent possible.

I am greatly concerned about the significant liability risk posed by the large number of contracts that will extend beyond the 2021 transition date. It is encouraging to see the use of fallback language and increased uptake of SOFR for new contracts, but addressing outstanding contracts based on Libor will be critical in minimizing disruption. I'm also very concerned about the execution risk, because if even just a small percentage of contracts that currently reference Libor don't transition to a new reference rate in time, this could still pose risks to financial stability.

Although the financial services industry as has dedicated significant resources to address outstanding "legacy" Libor contracts, roughly $2 trillion will be outstanding in 2021 and there is no comprehensive proposal on how to manage the risk. Do you think alternative proposals, other than encouraging the private sector to try to develop a solution, need to be considered to address legacy contracts?

In order to provide a solution to the issue of legacy contracts, we need to first understand the depth of the problem. It is reported that there are more than $320 trillion in legacy contracts across five currencies globally, and so we know the scale is significant. But beyond that, the variances between products may mean that amendments or rate changes are more or less feasible, meaning that potential private sector solutions would also range in their efficacy. Congress should look at different proposals to address this risk and thus encourage a more expeditions transition, including a safe harbor from liability to
encourage a change in legacy contracts.

The ICE Benchmark Administration (IBA)*, Libor's administrator, has been in discussions with panel banks about continuing Libor for a few more years to allow for legacy deals to mature. However, the Fed has stated in no uncertain terms that Libor will likely no longer be available post-2021. Should the regulatory agencies, in conjunction with the IBA, encourage the panel banks to continue to provide Libor quotes long enough for the vast majority of legacy contracts to run off?

The driving force behind the transition away from Libor is the significant risk to our financial system posed by potential manipulation. Providing clear and uniform signals regarding the upcoming transition is critical to ensuring that industry participants are taking the necessary steps to prepare. Considering that context, delaying the full transition for two years or five years to allow more contracts to mature may remedy some portion of the problem, but largely will not solve the problem of legacy contract liability. No matter when the deadline is, there will likely be a significant number of legacy contracts. The Fed has been clear about the need to take seriously the impending transition, which is why we should consider broader solutions that encourage a shift for legacy contracts.

Recent SOFR volatility following dislocations in the repo market has raised some concerns within the private sector regarding the stability of SOFR, potentially exacerbating already existing hesitation in transacting in SOFR. Should regulators consider measures to reassure market participants that SOFR is the right replacement rate for LIBOR?

First and foremost, I believe SOFR offers a clear improvement over Libor, which, as we have seen, can be subject to significant manipulation. It was the potential for this rate to be inflated or deflated based on forces completely distinct from economic influence that highlighted the critical need for a change. Understanding that there are differences between the two rates, ensuring that we have a standard that is based on sound data and reflects real market conditions is the best way to protect investors and consumers. The regulators should continue to communicate openly and transparently about how SOFR is calculated and take steps to show the market that it is the preferred replacement rate.

The recent volatility in the repo markets is an issue that has broad impacts beyond just the calculation of SOFR, and our regulators should take the serious steps to understand the causes and effects. Simultaneously, I think we must keep a close watch on the potential increase in structural uncertainty caused by volatility, while also remembering that SOFR's computing over several days will likely mitigate the overall impact.

Transitioning from Libor will require very significant and costly changes to infrastructure as well as hedging strategies and there are concerns that smaller and/or regional financial organizations might be lagging behind larger institutions with dedicated Libor-transition teams. Do you think financial institutions are doing enough to prepare for Libor's cessation?

This issue is among many that highlight the unique compliance challenges facing small firms. Private firms of all sizes and across all industries must be proactive in taking steps to mitigate disruption within their institutions, which is why we in Congress and our financial regulators need to continue to communicate openly and forcefully about the upcoming transition to encourage firms of all sizes to act now. Larger financial institutions that have significant trading operations typically have more contracts that reference Libor, but institutions of all sizes — including smaller and regional financial institutions — need to get started on the Libor transition as soon as possible in order to mitigate the risk to the entire financial system.

***It is important to note, however, that the IBA is not providing any assurances that any panel banks would be willing to continue to post Libor, or that even if they were willing to provide submissions, the FCA would allow LIBOR to continue to be published.**

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