

**M E M O R A N D U M**

March 16, 2022

To Our Clients and Friends

Re: President Approves Act Addressing Cyber Incident Reporting and LIBOR Transition

The Consolidated Appropriations Act, enacted March 15, 2022, contains provisions addressing the reporting of cyber incidents and the benchmark for LIBOR contracts that do not contain a replacement rate.

**REPORTING CYBER INCIDENTS**

The Cyber Incident Reporting for Critical Infrastructure Act of 2022,<sup>1</sup> requires entities involved in a critical infrastructure sector, which includes the financial services sector, to report to the Department of Homeland Security (DHS) cyber security incidents that actually jeopardize an information system or the integrity, confidentiality, or availability of information on an information system. A covered entity must notify DHS as soon as possible and no later than seventy-two hours after it reasonably believes that a cyber incident has occurred. Covered entities must also report ransomware payments to DHS no later than 24 hours after the payment has been made. DHS must publish a rule to implement the cyber incident reporting requirements. Reporting requirements will not take effect until the date set forth in the final rule.

**LIBOR CONTRACTS**

The Adjustable Interest Rate (LIBOR) Act,<sup>2</sup> directs the Federal Reserve Board (“Board”) to establish a benchmark, based on SOFR (the “Secured Overnight Financing Rate” published by the Federal Reserve Bank of New York), to replace LIBOR benchmarks in contracts that utilize LIBOR and either do not contain a fallback provision or contain a fallback provision that fails to identify a specific benchmark replacement or a determining person. Unless the Board determines that the LIBOR is no longer representative or the LIBOR will no longer be published, the Board established benchmark will replace the LIBOR on July 3, 2023.

A copy of the Consolidated Appropriations Act is available on our website at <http://schwartzandballen.com/news.html>.

For more information, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, Eric Knight, or Audrey Carroll at (202) 776-0700.

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<sup>1</sup> Division Y, Sections 2240-2246 of Public Law No: 117-2471.

<sup>2</sup> Division U, Sections 101- 110 of Public Law No: 117-2471.