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THE LIBOR SCANDAL: A NEED FOR REVISED NATIONAL AND INTERNATIONAL REFORMS AND REGULATIONS

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INTRODUCTION

Few individuals or even major investors are aware of the London Interbank Offered Rate (LIBOR), a little-known activity that profoundly affects local and world finances. The total value of securities and loans affected by LIBOR is approximately $800 trillion dollars annually. In contrast, the global Gross Domestic Product (GDP) is approximately $69.65 trillion dollars and the US GDP is around $15 trillion. Until the global economy suffered a great loss commencing in 2007, little attention was paid to the gross LIBOR abuses by banks, securities firms, and other financial institutions in the financial markets. This article examines the LIBOR rate manipulation which has led to investigations by the United States Commodity Futures Trading Commission (CFTC) and the United Kingdom Financial Services Authority (FSA).

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Significant fines were assessed by these governmental agencies. Civil lawsuits by affected legal persons also resulted. This article concludes that, in the absence of responsible actions by financial businesses, antifraud regulations must be strengthened and enforced, even though the manner and mechanisms of such regulations have not yet been finalized.

LIBOR: THE SELF-DETERMINED INTERBANK INTEREST RATE

LIBOR establishes the interest rate that banks charge each other for short term loans. It indicates the average rate that a LIBOR contributor bank would have to pay to obtain unsecured funding in the London interbank market for a designated time frame in reasonable market size for a given maturity in a given currency. It is set by the British Bankers Association (BBA) each business day between 11:00am and 11:10am London time. Each of the designated contributor banks is asked the question: “At what rate could you borrow funds, were you to do so by asking for and then accepting inter-bank offers in a reasonable market size just prior to 11:00am?” It is the lowest rate that would be charged to the particular bank given its credit and liquidity risk profile. It is also the perceived rate because as the contributor bank need not have actually borrowed unsecured funds from other banks. The LIBOR rates are quoted based on annualized interest rates which can vary significantly for a particular bank borrowing funds on a particular date.

LIBOR rates are important because they assist setting rates for a wide range of financial products from pensions to fixed and adjustable mortgage rates, currencies, mutual funds, and derivatives. [1]

The British Bankers Association (BBA) name does not disclose the fact that the Association is composed of 18 “panel banks” from all over the globe. The banks, setting the rates since 1986, are selected based on their scale of market activity, credit rating, and perceived expertise in the particular currency utilized by them. For example, the following banks are the Association’s contributor banks for the US Dollar: Bank of America, JP Morgan Chase, Bank of Tokyo-Mitsubishi UFJ Ltd, Lloyds Banking Group, Barclays Bank plc, Rabobank, BNP Paribas, Royal Bank of Canada, Citibank NA, Societe Generale, Credit Agricole CIB, Sumitomo Mitsui Banking Corporation, Credit Suisse, Norinchukin Bank, Deutsche Bank AG, Royal Bank of Scotland Group, HSBC, and UBS AG.[2]

Each day at noon London time, the BBA agent Thompson Reuters distributes maturity rates globally to approximately 300,000 recipients with respect to five currencies with seven maturities: overnight, spot/next, one week, one month, two months, three months, six months, and twelve months.[3] These rate reports were commenced in 1986 in response to the creation of sophisticated new market instruments, including interest rate swaps, foreign currency options, and forward rate agreements.

The five currencies reported by Thomson Reuters include the Swiss Francs, the Euro, the Pounds Sterling, the Japanese Yen, and the US Dollars. [4]

The LIBOR rates, however, were used to obtain profit for financial institutions in a fraudulent manner rather than merely to reflect a good faith estimate of perceived interest rates.

THE LIBOR RATE BANK MANIPULATION

Trader and Bank Manipulations Discovered

In 2012, investigators for the United States CFTC and the United Kingdom FSA discovered financial trader and bank executive malfeasance before, during and after the 2007-2009 financial crises. Traders and bank executives acted together to produce false LIBOR numbers. One financial trader joked and offered favors, indicating that “Coffees will be coming your way” with respect to an exchange for a manipulated number; another trader stated he owed another trader ‘big time” for the made up cost of borrowing funds and a third wrote himself to “Ask for High 6M Fix.” The manipulations produced great personal gain for the traders because even small fluctuations of the LIBOR rates produce millions of dollars of gains for the perpetrator daily. Bank executives in turn concealed the trader operations because they feared a run on their banks if the submissions indicated a higher than average borrowing rate. Banks also had incentives to falsify the cost of borrowing because a higher than average borrowing cost might signal weakness on their balance sheets which, in turn would exacerbate their difficulties. [5]

In addition, the banks and their executives acted together to falsify the LIBOR rate statements. Traders’ manipulations affected the LIBOR rate to the extent of 1-2 basis points, but the false submissions by banks affected the rates by 30-40 basis points.[6]

The 2008 Geithner Warning

For a number of years prior to the 2012 public disclosure of the rate manipulation, questions were raised concerning its possibility. In testimony before the United States House of

Representatives, Timothy Geithner, the then Secretary of the Treasury, stated that he, as President of the Federal Reserve of New York, warned British authorities in 2008 of possible irregularities. In an email to Mervyn King, Governor of the Bank of England, Geithner warned that the BBA should not have the right to regulate LIBOR because that association was not strong enough to oversee its rate setting methodology. Geithner's testimony stated: "In the detailed recommendations we gave to the British, we identified a series of specific things that would make it untenable for this rate to be affected by the banks' incentive to lower their reported cost of funds. We gave them very specific detailed changes for doing that. If those had been adopted sooner, you would limit this risk going forward." He further stated the reforming LIBOR had to be accomplished internationally.[7]

Among the recommendations made by Geithner, with the apparent concurrence of US banks, was the establishment and publication of best practices by the BBA for calculating and reporting rates including the requirement that external auditors confirm adherence to these best practices and attest to the accuracy of banks' LIBOR rates. Geithner further suggested the increase in size and the broadening of the composition of the US Dollar panel with additional US banks on the panel such as State Street, Northern Trust, and the Bank of New York. He proposed a second US dollar LIBOR fixing for the US market to capture rates when the US market is active. Geithner recommended changes which included a) the specification of transaction size which would be adjusted flexibly over time so as to reflect significant changes in market conditions; b) the reduction of the number of quoted maturities; c) the report of only the LIBOR maturities for which there is a direct benefit; and d) the elimination of the incentive to misreport by randomly selecting a subset of 16 banks from which the trimmed average rate would be calculated.[8]

Secretary Geithner was criticized broadly by Congressional Representatives for not revealing his concerns to the committees of Congress. Representative Jeb Hensarling claimed that Geithner treated the LIBOR manipulation "as a curiosity, or something akin to jaywalking, as opposed to highway robbery". Other Representatives stated that, notwithstanding LIBOR difficulties known to the Treasury Department, the Federal Reserve continued to use LIBOR in a number of financial rescue programs. Geithner defended his role alleging: "We were in the position of investors all around the world…." "We had to make a choice about what was the best rate. It was a rate that was vulnerable to manipulation, but we tried to initiate reform with the British."[9]

The Bank of England confirmed that it had received the Geithner communication in June 2008. The Bank alleged that it had notified the BBA of the recommendations. The Bank also noted that there were a number of emails between its staff and the BBA, but apparently little or no action was taken as a result of the suggestions made in the emails. Both the Bank of England and the New York Federal Reserve Bank alleged that they failed to act because they had no responsibility for oversight of LIBOR which was left exclusively to the BBA. The BBA claimed that it did publish a paper in November of 2008 which suggested changes in its governance structures and disciplinary procedures as well as better scrutiny and analysis in setting the rate.[10]The UK Parliament subsequently passed the Financial Services Act of 2012, discussed below.

RESULTS OF THE LIBOR SCANDAL: PROSECUTIONS, SUITS AND PLANS

Prosecutions

Barclays Bank:

The first casualty of the LIBOR scandal was the 300-year-old Barclays Bank (Barclays PLC, Barclays Bank PLC, and Barclays Capital Inc.). After many complaints, the US Commodity Futures Trading Commission (CFTC) issued a June 27, 2012 Order settling the charges instituted against the Bank. The Order noted that the Bank, since at least 2005, repeatedly attempted to manipulate the rate and made false, misleading or knowingly inaccurate submissions concerning two global benchmark interest rates to the BBA and to the European Banking Federation's Interbank Offered Rate (EURIBOR).[11] According to the Order's findings of fact, Barclays' conduct involved multiple desks, traders, offices and currencies, including the US Dollar, the Pound Sterling, the Euro, and the Yen. Its daily LIBOR submissions were made at the requests of the Bank's swaps traders who attempted to affect the official published LIBOR to benefit the Bank's derivatives trading positions. Its swaps traders coordinated with and aided traders at other banks to influence LIBOR submissions.[12]

The Order noted that, during the financial crisis of 2007-2009, Barclays lowered its LIBOR submissions in order to manage perceived negative market perceptions that the Bank had liquidity problems based on its high submissions in comparison to lower submissions of other banks with respect to the cost of borrowing unsecured funds. The Bank's failure to have proper supervision of its trading desks, especially that of its swaps dealers, permitted senior managers to engage in false submissions. Barclays routinely based its LIBOR and EURIBOR submissions on its traders' requests, rather than reflecting the actual cost of borrowing, in order to benefit the Bank's derivatives trading positions. It lowered its submissions to reflect the lower costs of borrowing submitted by other banks in an endeavor so as to not appear to be an outlier bank.

Barclays Bank consented to the imposition of a $200 million penalty by the CFTC as well as to $160 million penalty to the Fraud Section of the US Department of Justice, and to implement the following procedures:

- Make submissions based on specified factors with Barclays' transactions being given the greatest weight, subject to specified adjustments and considerations;
- Implement firewalls to prevent improper communications including between traders and submitters;
- Prepare and retain certain documents concerning submissions, and retain relevant communications;
- Implement auditing, monitoring and training measures concerning its submissions and related processes;
- Make regular reports to the CFTC concerning compliance with the terms of the Order;
- Use best efforts to encourage the development of rigorous standards for benchmark interest rates; and
- Continue to cooperate with the CFTC.[13]

The scandal led to the replacement of its longstanding senior executives including its Chairman, Marcus Agius, CEO Bob Diamond, and COO Jerry Del Missier.[14] The public and governmental call for retribution may have made Barclays Bank an easy target but, as noted below, it was not the only bank to be punished for its wrongdoing.

UBS (formerly Union Bank of Switzerland):

The largest bank in Switzerland, UBS, was ordered to pay 1.4 billion Swiss francs (US $1.5 billion) to US, UK, and Swiss regulators for its involvement in the rate-rigging scandal concerning LIBOR submissions. These penalties amount to three times those imposed upon Barclays Bank. [15] The sum includes £160 million ($260 million) to the UK FSA, and 59 million francs in estimated profits to the Swiss Financial Market Supervisory Authority. The UK financial regulator found some 2,000 documented requests by UBS traders to alter interest borrowing rate submissions involving 45 or more bank personnel over a 6-year period. The UBS employees worked with interdealer brokers whom they bribed to manipulate Yen LIBOR submissions by other banks. The UBS traders were able to have other persons submit higher and lower rates to LIBOR to benefit their proprietary trading positions. The UBS branch in Japan pled guilty to one count of wire fraud for manipulation of the Yen LIBOR. Its operation in Japan was only modestly affected in that it paid a fine equal to about its three weeks revenue in Japan. The Japanese UBS operation was also prohibited in participating in the Tokyo interbank derivative market for a week, and had to strengthen its compliance and internal controls.[16]

The FSA also noted one specific example in which a UBS trader agreed with a fellow trader that he would attempt to manipulate UBS's submissions in small drops in order to avoid arousing suspicion of regulators. The trader stated: "if you keep 6s [6 month JPY LIBOR rate] unchanged today…I will f…ing do one humongous deal with you… Like a 50,000 buck deal, whatever…I need you to keep it as low as possible…if you do that…I'll pay you, you know, 50,000 dollars, 100,000 dollars…whatever you want…I'm a man of my word."[17]

Royal Bank of Scotland (RBS):

In a situation similar to the UBS controversy above, the UK FSA, the US CFTC and the US Department of Justice fined RBS £290 million ($610 million) for its manipulative practices. The sum was to be paid from moneys taken back from paid bonuses and future bonuses of executives of the Bank. RBS traders colluded with other traders in London, Singapore, Tokyo, and elsewhere to fix LIBOR rates in hundreds of trades involving the Japanese Yen and Swiss francs from 2006-2010. The prosecution of RBS was based on its failure to have and enforce compliance measures to detect and prevent fraudulent activity. Investigators noted that derivatives traders and submitters worked together at the same desk thereby facilitating potential conflicts of interest. The fine was significantly lower than that imposed on UBS because 82 percent of its shares are owned by the British government.[18] Investigators also noted that other banks on the LIBOR panel were engaged in rate manipulation.[19]

Rabobank (Cooperatieve Centrale Raiffeisen-Boerenleenbank B.A).:

In October, 2013, US and European regulators fined Rabobank of the Netherlands the sum of €774 million ($1 billion) for alleged manipulation of LIBOR and EURIBOR currency rates by some 30 staff members. The bank was also found to have manipulated the Yen LIBOR causing it to close it Tokyo's offices leaving only a representative branch therein. The regulators noted that the bank had filed to act in the light of one of its employees having told an internal audit group of yen manipulations in 2009. In 2006, a Rabobank derivatives trader on a number of occasions asked the bank's money market desk in London that supervised rate submitters for rates favoring his position. The desk head of the London office said to the trader that "I am fast turning into your LIBOR bitch."[20] In addition, a criminal information was filed in the US District Court for the District of Columbia charging the bank with wire fraud for the said rate manipulation but deferred prosecution pending the bank's cooperation with the Department of Justice in its ongoing investigation of LIBOR manipulation.[21]

Additional Investigations:

The LIBOR scandal has resulted in investigations of Citigroup, Deutsche Bank, HSBC, ICAP, and JP Morgan Chase. A financial trader at Citigroup in the Bank's Tokyo office, for example, needed assistance with respect to the Japanese Yen. He contacted a RBS broker-trader and asked for an artificially low LIBOR estimate of the Yen for the next day. The Citigroup trader indicated his appreciation for any favors in this regard, and the RBS trader responded affirmatively. That message and other similar type messages led prosecutors in the US to indict the Citigroup trader for conspiracy, wire fraud, and other charges. He was also arrested in England at a later date. The Japanese Services Agency suspended briefly Citigroup's Global Markets Group from Yen trading. JP Morgan Chase and the Bank of America are presently under investigation by the US, UK, Canadian, Swiss, and other financial regulators.[22]

The UK Financial Conduct Authority stated in December, 2013 that it will also fine individual traders from a half dozen firms including Barclays of more than £100,000 ($US $160,000). Traders contesting the fines may have their cases heard by the Authority's internal tribunal. A former UBS trader, Tom Hayes, who had been scheduled to enter a plea of guilty in a London court instead decided to enter a "Not Guilty" plea with two other traders. His trial is scheduled for January, 2015. In December, 2013, the US Department of

Justice indicted Hayes concerning LIBOR rate manipulations by conspiring with employees of JPMorgan Chase, HSCH, RBS, and ICAP.[23]

Civil Litigation

The United Kingdom:

The criminal fines imposed on Barclays Bank, described above, were only the beginning of its financial difficulties rather than the end of its financial exposure. Guardian Care Homes commenced a lawsuit for £70 million (US $113 million) concerning the alleged miss-selling of interest rate hedging products based on LIBOR rates.[24] London's Court of Appeals ruled in August, 2013 that its lawsuit against the Barclays Bank, which was the first bank to acknowledge rate manipulation, as well as a lawsuit against Deutsche Bank by India's Unitech, could proceed to trial.[25] This admission has led some commentators to demand equal investigation and enforcement against other banks which similarly colluded to artificially set LIBOR.

The United States:

There are pending US civil lawsuits, including a class action brought in August 2012 on behalf of investors in Alaska, Wyoming, North Dakota, and some 20 other states. The March 29, 2013 Federal District Court for the Southern District of New York decision, *In re LIBOR-Based Financial Instruments Antitrust Litigation*, however, indicated that a number of difficulties may arise in civil actions against the financial institutions and their senior executives for LIBOR manipulation alleged injuries.[26]

The federal Judicial Panel on Multi-District Litigation assigned District Court Judge Naomi Buchwald to coordinate and consolidate pretrial proceedings with respect to a number of civil lawsuits commenced nationally involving LIBOR manipulation. The defendants had filed motions to dismiss with respect to the four categories of plaintiffs: (1) over-the-counter traders; (2) exchange-based traders; (3) bondholders; and (4) the Charles Schwab company. All but the fourth were class action plaintiffs. A stay was entered by the court with respect to all new complaints pending its decision.

The court addressed the defendants' motions to dismiss. The complaints alleging federal antitrust violations were dismissed for failure to establish "antitrust injury" defined as "an injury that results from an anticompetitive aspect of defendants' conduct." Although the plaintiffs had alleged that the defendants conspired to suppress LIBOR over a three-year period causing injury to the plaintiffs, nevertheless, they failed to allege that the injuries resulted from any harm to competition. Bank submissions to LIBOR were not in themselves competitive and the plaintiffs failed to allege that the conduct of the defendants had an anticompetitive effect in any market in which the defendants compete.

With respect to the plaintiffs' complaint of market manipulation, the court determined that the plaintiffs had adequately pleaded their claims, and would not be dismissed for failure to state a course of action. But the claims were time-barred because there were numerous articles published in April and May of 2008 in prominent publications that should have made the plaintiffs aware of the defendants' commodities manipulation claims that were based on contracts entered into between August 2007 and May 29, 2008. Plaintiffs' claims for contracts entered into between April 15, 2009 and May, 2010 may or may not survive the statute of limitations pending further amendment to their complaints.

Plaintiffs' complaints concerning RICO (*Racketeer Influenced and Corrupt Organization Act*)[27] violations were dismissed. The predicate acts of mail and wire fraud could have been part of a claim for securities fraud and would thus be barred by the PSLRA (*Private Securities Litigation Reform Act of 1995*).[28] Because the fraudulent actions alleged took place in England, RICO would not be applicable; the Act applies only to domestic enterprises. The additional complaints alleging state-law claims alleging antitrust violations were also dismissed for lack of antitrust injury as well as the exchange-based New York common law unjust enrichment because the plaintiffs failed to allege any relationship between them and the defendants.

Assuming the decision is not reversed on appeal in whole or in part, it appears that civil litigation claims will have substantial difficulties in overcoming motions to dismiss, including due to statute of limitations difficulties.

Plans

Suggested Rate Setting Mechanisms:

A number of alternative suggestions for the replacement of LIBOR have arisen:

- Members of the European Repo Council consisting of a number of the leading banks globally, including Goldman Sachs and Deutsche Bank, requested the European Central Bank to find a new way of calculating interest rates for inter-bank unsecured loans. The Council suggested that the Central Bank set up a benchmark based on actual "secured market" trades (bonds and other assets used as security for loans). The secured market alternative to the unsecured interbank market should be used to set the price for trillions of euros for financial products including home loans and derivatives.[29]

- The former Chairman of the US Federal Reserve Board, Ben Bernanke, in testimony before United States Congressional committees, suggested two market-determined replacement alternatives, namely (1) use of repo rates, i.e., repurchase agreements defined as collateralized lending transactions whereby one party agrees to sell securities to a second party against a transfer of funds while the other party agrees to repurchase the said or equivalent securities at a specific price in the future;[30] or (2) Overnight Interest Swap (OIS) rates between banks, which exchange an overnight interest rate for a short-term interest rate.[31]
- The former Chairman of the US CFTC, Gary Gensler, stated that the current international financial benchmark for setting rates on mortgages, car loans, and futures market trading is not sustainable. He quoted Mervyn King, the Governor of the Bank of England who said of LIBOR in 2008: "It is, in many ways, the rate at which banks do not lend to each other." Gensler noted that there has been a significant structural change in the manner in which market participants finance their balance sheets and trading positions, from borrowing unsecured toward borrowings that are secured by posting collateral. The 2008 financial crisis and the 2010 debt crisis and the downgrading of banks' ratings have cause unsecured borrowings to diminish substantially. Basel III international capital rules, which now include an asset correlation factor that requires additional capital when

a bank is exposed to another bank, have also reduced outlays for unsecured borrowings. Coupled with the revelations of bank manipulations, Gensler suggested that it is time to undertake possible alternative mechanisms which include overnight index swaps rates, benchmark rates based on actual short-term collateralized financing, or a new standard based on government borrowing rates.[32]

- Use of the Eurodollar rate which is published daily by the Federal Reserve Board as published by Bloomberg ICAP Eurodollar screen at 9:30 A.M. EST.[33]
- Rates based on actual trades rather than estimates. Those opposed to such computations allege that many banks cannot borrow from other banks and thus there are no LIBOR transactions. Three-to-six month transactions are virtually impossible for certain currencies.[34]
- Additional alternatives for determining rates for adjustable rate mortgages (ARMS) include the linking of ARMS to Treasuries; "effective" federal funds rate; and general collateral finance repurchase agreements.[35]

United Kingdom Legislative Action – The Financial Services Act of 2012:

The revelations of impropriety in the LIBOR rate setting mechanism brought about UK Parliamentary action. At the behest of the Chancellor, The *Financial Services Act of* 2012 was enacted. The then existing Financial Services Authority (FSA) was abolished and replaced by a single financial services regulator and two new regulatory bodies, to wit, the Prudential Regulation Authority (PRA), a subsidiary of the Bank of England and the Financial Conduct Authority (FCA). The effective date of the transition is April 1, 2013.[36] The purposes for the new Authorities are to "carry forward our philosophy of outcomes-based regulation, intensive firm supervision and credible deterrence."[37] The role of the PRA is to regulate the UK financial system of all deposit-taking institutions and investment banks. The FCA's role is to regulate the wholesale and retail financial markets and their infrastructure and all financial firms not regulated by the PRA.[38] Martin Wheatley, the Chief Executive of FCA, produced an 85 page Wheatley Review final report concerning the LIBOR system and concluded that the system should continue.[39]

- LIBOR should be reformed rather than replaced as a benchmark;
- Transaction data should be explicitly used to support LIBOR submissions; and
- Market participants should continue to play a significant role in the production and oversight of LIBOR.[40]

Transfer of Oversight of LIBOR:

As a result of the failure of the British Bankers' Association to regulate LIBOR and the recommendations of the Wheatley Review, oversight of LIBOR was transferred from the BBA to a regulator to oversee the rates set forth by the BBA.[41]

Will reforming LIBOR instead of replacing it resolve the problem of rate manipulation? At least one commentator observed that, by the continued use of LIBOR setters by banks, the FCA will simply discard submissions it deems too high or too low and inadvertently create a rate manipulation of its own making, and subject to possible future manipulation. The increased layer of rate inspection, however, by a non-industry party will certainly produce some guards against fraudulent manipulations.[42]

CONCLUSION

In a 2014 Chartered Financial Analyst (CFA) Global Market Sentiment Survey of more than 6,500 members, more than half of its members (54 percent) believed that there was a failure of an ethical culture within financial firms. This failure has led to a lack of trust in the industry. A majority of members believed that there should be increased global coordination to monitor systemic risks to avoid future financial crises; greater transparency respecting trades; improved corporate governance; and adherence to governmental rules and regulations.[43]

The world of finance is immensely complicated. Even so-called sophisticated investors lack sufficient knowledge of derivatives, swaps, and other instruments of finance. It is difficult to comprehend that reputable international banks and financial institutions have engaged in rate manipulation almost without fear of discovery. Their malfeasance has consisted alternatively of corporate decisions to manipulate rates to boost their standing; by their failure to have safeguards against manipulation; or by their failure to supervise rogue employees who were able to profit extensively by such manipulation. Scandals in the financial industry continue to abound: corporate ratings organizations such as Standard & Poor's, Moody's, and Fitch Ratings have allegedly given higher than merited ratings to corporate financial institutions in order to receive their business. The result of these and other scandals precipitated the passage of the Dodd-Frank Act[44] and other national and international legislation, including regulatory investigations by affected government commissions. These investigations and their resulting fines have in turn substantially raised the costs of providing financial services.

Unfortunately, the LIBOR scandal was revealed after the promulgation of Dodd-Frank and thus had no specific provisions relating to the scandal. At best, the Act expanded the powers of the US CFTC in its regulations of derivatives. It is highly unlikely that Dodd-Frank will be amended to cover the additional manifestations of the LIBOR scandal. The House of Representatives, in fact, has sought to repeal the Act.[45] Financial institutions complain extensively of being overburdened by governmental regulations. But unless they collectively and individually act responsibly, governments have little choice other than greater oversight and prosecution for such malfeasance.

Although the task presents great challenges, the ordered enforcement of national and international antifraud regulation must occur. The United Kingdom Financial Services Act, the extension of Dodd Frank to govern disclosure of LIBOR rate setting and continuing national and international initiatives to enforce due diligence in the setting of these rates are absolutely necessary to avoid illegal actions which affect individual persons and corporate entities. Suggested rate setting mechanisms must be continually revised and diligently enforced.

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