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Final regulations: Additional guidance on transition from interbank offered rates (IBORs) to other reference rates for foreign banks with ECI

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9976) providing additional guidance on the transition away from the use of “interbank offered rates” (IBOR) to other reference rates.

Specifically, the [final regulations](#) [PDF 209 KB] provide for the replacement of the 30-day IBOR presently used in the published rate election referenced by Treas. Reg. § 1.882-5(d)(5)(ii)(B), which may be used by taxpayers to determine the amount of interest expense attributable to their excess U.S.-connected liabilities and allocable to income that is effectively connected with the conduct of a trade or business within the United States (ECI), with the “secured overnight financing rate” (SOFR) of the same tenor, plus a fixed spread adjustment.

The final regulations will affect foreign banks that have income that is ECI.

The final regulations apply to tax years ending after June 30, 2023.

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