



CENTER FOR CAPITAL MARKETS  
COMPETITIVENESS.

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VICE PRESIDENT

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August 4, 2020

Comment Intake—LIBOR  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

***Re: Facilitating the LIBOR Transition (Regulation Z) (Docket No. CFPB-2020-0014)***

Dear Sir or Madam:

The U.S. Chamber of Commerce’s (“Chamber”) Center for Capital Markets Competitiveness (“CCMC”) appreciates the opportunity to comment on the changes to Regulation Z that the Consumer Financial Protection Bureau (“Bureau”) intends to make to facilitate the upcoming LIBOR transition.<sup>1</sup>

As the Bureau recognizes, the transition away from LIBOR will have significant implications across the financial system, including with respect to regulatory requirements implemented by the Bureau. Interest rates on a variety of financial products, including some mortgages, credits cards, home equity lines of credit, reverse mortgages, and student loans, rely on LIBOR as the benchmark index to determine the interest rate that consumers will pay. We consequently welcome the Bureau’s attention to this important issue and particularly its focus on ensuring that the LIBOR transition does not disrupt consumers’ access to financial products on which they depend.

We write to urge the Bureau to clarify three points in this rulemaking.

*First*, we ask that the Bureau clarify what constitutes a “comparable index” for purposes of the Proposal’s discussion of closed-end loans. As the Bureau knows, the current Regulation Z provides that a “creditor does not add a variable-rate feature by changing the index of a variable-rate transaction to a comparable index, whether the

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<sup>1</sup> See Proposed Rule, Facilitating the LIBOR Transition (Regulation Z), 85 Fed. Reg. 36938 (June 18, 2020) (“Proposal”).

change replaces the existing index or substitutes an index for one that no longer exists.”<sup>2</sup> The Bureau continues to rely upon this concept of a “comparable index” in the Proposal, including by discussing an example of a comparable index.<sup>3</sup> Neither Regulation Z nor the Proposal defines “comparable index,” however, and the Bureau does not explain the factors that would guide a determination whether an index is indeed comparable. We accordingly urge the Bureau to clarify the meaning of “comparable index” for purposes of Regulation Z.

*Second*, we ask that the Bureau confirm that an entity may rely on other indices beyond SOFR in the context of closed-end loans. Regarding disclosure requirements imposed under 12 C.F.R. § 1026.20, for example, the Bureau notes that it is “proposing to determine that the spread-adjusted indices based on SOFR recommended by the ARRC as a replacement for the 1-month, 3-month, 6-month, and 1-year USD LIBOR index are comparable indices to the 1-month, 3-month, 6-month, and 1-year USD LIBOR index respectively.”<sup>4</sup> The Bureau explains in its section-by-section analysis that this highlighting of SOFR does not mean that the Bureau believes that SOFR is the only index that institutions may use in this context.<sup>5</sup> We have heard some concern, however, that the Bureau’s emphasis on SOFR in the closed-end loan context could be perceived as reflecting a preference for SOFR over other indices. We would thus ask that the Bureau clarify in Comment 20(a)-3.ii.B, and other appropriate elements of its discussion of closed-end loans, that a creditor may use other appropriate indices beyond SOFR in this context, such as by noting that any use of examples in the Proposal is non-exhaustive.

*Third*, we ask that the Bureau clarify the extent to which LIBOR would become “unavailable” in the event that it continued to be reported but became unreliable or that there was uncertainty about its ongoing status. We appreciate the Bureau’s interest in facilitating an orderly transition and in enabling creditors to make timely moves away from LIBOR. We are worried, however, about the possibility of lingering uncertainty over the timing of key milestones in the transition, including because those milestones will in large part be determined by regulators in the United Kingdom. We consequently would ask the Bureau to make appropriate changes to the Proposal to clarify what it means for LIBOR to become unavailable. In this manner, the Bureau can facilitate a timely transition and avert any unnecessary confusion or regulatory uncertainty.

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<sup>2</sup> Comment 20(a)-B to 12 C.F.R. § 1026.

<sup>3</sup> *See, e.g.*, Proposal 85 Fed. Reg. at 36939.

<sup>4</sup> *See* Proposal, 85 Fed. Reg. at 36947.

<sup>5</sup> *Id.* (“The proposed example would be illustrative only, and the Bureau does not intend to suggest that the spread-adjusted SOFR indices recommended by the ARRC are the only indices that would be comparable to the LIBOR indices.”).

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We thank you for your consideration of these comments and would be happy to discuss these issues further.

Sincerely,

A handwritten signature in black ink that reads "Julie Stitzel". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Julie Stitzel