August 4, 2020

Office of Regulations
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Facilitating the LIBOR Transition (Regulation Z); Docket No. CFPB-2020-0014; RIN 3170-AB01.

Dear Sir or Madam:

The Credit Union National Association (CUNA) represents America’s credit unions and their 115 million members. On behalf of our members, we are writing regarding the Consumer Financial Protection Bureau’s (CFPB or Bureau) notice of proposed rulemaking to amend Regulation Z, which implements the Truth in Lending Act (TILA), to address the sunset of LIBOR (originally an acronym for London Interbank Offered Rate), which is expected to be discontinued after 2021.¹

Background

The Bureau is proposing several amendments to Regulation Z for both open-end and closed-end credit products to address the planned sunset of the LIBOR index. Currently, LIBOR is expected to be discontinued sometime after 2021. The CFPB intends for a final rule on LIBOR to take effect on March 15, 2021, except for the updated change-in-term disclosure requirements for home-equity lines of credit (HELOCs) and credit cards. The Bureau also announced plans in this proposal to issue additional written guidance related to the LIBOR transition on its website.

General Comments

CUNA supports the CFPB’s proactive effort to amend Regulation Z to facilitate the LIBOR transition for consumer financial products in response to LIBOR’s planned discontinuation after 2021. Currently, some credit unions use LIBOR for their variable-rate lending products. The Bureau’s prompt finalization of a transition rule that provides flexibility for lenders to determine a replacement index as well as additional guidance for the required consumer disclosures would be of significant assistance to both credit unions and consumers.

While CUNA generally supports the proposed amendments, we have some additional feedback for the Bureau to consider:

The CFPB should avoid finalizing any rule that effectively mandates a particular replacement index and instead should provide flexibility for lenders to make prudent business decisions.

CUNA generally supports the Bureau’s proposal and believes clarity of compliance expectations surrounding the LIBOR discontinuation is beneficial for financial institutions and, ultimately, consumers. In particular, credit unions appreciate the Bureau has proposed a determination that the prime rate published in the Wall Street Journal has historical fluctuations “substantially similar” to those of certain U.S. Dollar (USD) LIBOR indices. Many credit unions already use the prime rate or plan to transition to the prime rate post-LIBOR. However, the Bureau should aim to provide clarity on determining which indices are considered “substantially similar” to LIBOR and, in doing so, adopt a flexible principles-based standard

¹ Facilitating the LIBOR Transition (Regulation Z), 85 Fed Reg. 36938 (June 18, 2020).
in order to avoid effectively “mandating” any specific index as the replacement for LIBOR. A final rule further articulating the meaning of “substantially similar” in a clear, flexible manner would provide useful guidance for lenders conducting the transition based on prudent business decision making and their individual product offerings.

While the Alternative Reference Rates Committee (ARRC) identified the Secured Overnight Financing Rate (SOFR) as its recommended alternative to LIBOR after considering various potential alternatives, some lenders remain wary of SOFR as a replacement index. For example, some lenders are concerned about SOFR's lack of a history. CUNA recommends the Bureau avoid incidentally creating a “preference” for SOFR as a default alternative to LIBOR through this rulemaking. The Bureau’s rule should not preclude the use of reasonable alternatives to LIBOR and should consider highlighting more potential replacement index options, including the Federal Funds rate.

**CUNA supports reasonable disclosures for consumers affected by the LIBOR phase-out and request the Bureau consider developing a model disclosure template to assist the transition.**

CUNA supports providing reasonable, informative disclosures to consumers about the financial products and services they use. We also agree consumers should be informed of changes to their accounts, especially changes that may materially alter the terms of any outstanding loans. In the interest of increasing consumer knowledge, we support the Bureau’s proposed revisions to the relevant notice requirements in Regulation Z to account for the LIBOR phase-out. In addition, the Bureau should consider and study the development of a model disclosure template that financial institutions can provide to members about the LIBOR discontinuation. An easily understandable model disclosure template developed in conjunction with this rulemaking may assist consumers in better understanding how their account may be affected and why. The Bureau should also develop and broadly disseminate consumer-facing educational materials on the discontinuation of LIBOR.

**The CFPB should coordinate with the National Credit Union Administration (NCUA) in developing tools and resources to assist credit unions with the LIBOR transition.**

As the Bureau continues to develop resources and moves forward with this rulemaking ahead of the phase-out of LIBOR, CUNA strongly recommends the CFPB coordinate its efforts with the NCUA and other relevant banking regulators. Recently, the NCUA issued a letter to credit unions highlighting “LIBOR Cessation Planning” as a supervisory priority for 2020. In the letter, the agency noted the importance of planning for the LIBOR cessation from a safety and soundness perspective and stated examiners will be including transition-specific inquiries as part of their routine examination activities. We respectfully request the Bureau promptly finalize this proposal and coordinate with the NCUA on guidance or resources necessary to ensure credit unions can successfully complete the transition with little impact on the consumer experience.

**Conclusion**

We look forward to working with the Bureau to ensure a smooth transition of the expiration of LIBOR. On behalf of America’s credit unions and their 115 million members, thank you for your consideration. If you have questions or require additional information related to our feedback, please do not hesitate to contact me at (202) 508-3629 or amonterrubio@cuna.coop.

Sincerely,

Alexander Monterrubio  
Senior Director of Advocacy & Counsel

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