CFPB Issues Proposed Rule, FAQs and Revised CHARM Booklet for Transition from LIBOR

On June 4, the Consumer Financial Protection Bureau (CFPB) took steps to provide rules and guidance for the upcoming transition away from LIBOR for adjustable rate loans. The CFPB issued the following:

- A revised version of the CHARM booklet that is to be given to certain ARM loan mortgage loan applicants within three days of application. The revised booklet removes references to LIBOR, and has been reformatted and put into fewer pages to make it easier for consumers to review and understand. The CFPB noted specifically that testing indicated that consumers find the table comparing fixed-rate interest rates to adjustable rate interest rates particularly useful. The revised booklet can be found here: https://files.consumerfinance.gov/f/documents/cfpb_charm_booklet.pdf

- A Notice of Proposed Rulemaking (NPRM) addressing certain issues related to the LIBOR replacement. The NPRM can be found here: https://files.consumerfinance.gov/f/documents/cfpb_proposed-rule_amendments-to-facilitate-libor-transition_2020-06.pdf

- An Unofficial Redline of the LIBOR Transition Rule, which can be found here: https://files.consumerfinance.gov/f/documents/cfpb_libor-transition_nprm-unofficial-redline.pdf

- A quick reference sheet for the NPRM titled *Fast Facts: Proposed LIBOR Transition Rule*, which can be found here: https://files.consumerfinance.gov/f/documents/cfpb_libor-transition_nprm-fast-facts.pdf

- LIBOR Transition FAQs, addressing LIBOR related issues related to current rules, which can be found here: https://files.consumerfinance.gov/f/documents/cfpb_libor-transition_nprm-frequently-asked-questions.pdf

Among other things, the NPRM proposes:

  - For HELOCs, open-end reverse mortgages and credit cards:

    - For the LIBOR transition, creditors are required to include in the change in-terms notice the replacement index and any adjusted margin, regardless of whether the margin is being reduced or increased.
    - Creditors may replace LIBOR on or after March 15, 2021 (instead of the current requirement that the old index be “no longer available”).
    - Creditors must ensure that the rate calculated using the replacement index is substantially similar to the rate using the LIBOR index. That determination is to based on December 31, 2020 index levels and comparisons.
    - Replacement index requirements include the following:
        - If a replacement index is newly established and has no history, it must produce on December 31, 2020 an APR substantially similar to that which would be produced by LIBOR;
        - If a replacement index is not newly established and has a history, (1) the historical fluctuations in the LIBOR index and replacement index must have been substantially similar; and (2) the replacement index must produce on December 31, 2020 an APR substantially similar to that which would be produced by LIBOR. The NPRM’s proposed Official Interpretations contain proposed CFPB determinations that the ARCC-recommended SOFR indices and the prime rate published daily in the Wall Street Journal have historical fluctuations substantially similar to LIBOR.
- For closed-end transactions, the NPRM identifies the SOFR based indices endorsed by ARCC as examples of indices that would serve as a comparable indices to replace LIBOR in order to avoid the change in index being deemed a refinance under Regulation Z.

Comments on the NPRM may be submitted until August 4, 2020.

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