

May 1, 2023

## April was a Big Month for the LIBOR Transition: CFPB Revises Reg Z to Address 12-month LIBOR; Agencies Issue Joint Statement on Completing LIBOR Transition

By: [Stephanie Shea](#)

As everyone knows, the remaining USD LIBOR tenors will expire on June 30, 2023. Also as everyone knows, the CFPB issued a final rule in December 2021, modifying Regulation Z to reflect the transition from LIBOR. For example, it revised Regulation Z's commentary to the closed-end refinancing rules (that is, the commentary to Section 1026.20(a)) to contain what could be viewed as a "safe harbor" for changing the index from the 1-month, 3-month, or 6-month LIBOR index to the spread-adjusted index based on SOFR recommended by the Alternative Reference Rates Committee (ARRC) for consumer products to replace the 1-month, 3-month, or 6-month USD LIBOR index respectively. However, the CFPB's December 2021 final rule did not do the same for the 12-month LIBOR. Lastly, the FRB issued a final rule implementing the Adjustable Rate (LIBOR) Act in [January 2023](#).

There were two key LIBOR transition developments in April 2023. First, on April 26, 2023, the agencies issued a "Joint Statement on Completing the LIBOR Transition." In that statement, the agencies reiterated their expectations that institutions with LIBOR exposure should complete their transition of remaining LIBOR contracts as soon as practicable. As noted in prior interagency statements, failure to adequately prepare for LIBOR's discontinuance could undermine financial stability and institutions' safety and soundness and create litigation, operational, and consumer protection risks.

The second key LIBOR transition development of April 2023 occurred on April 28, 2023. On that day, the CFPB issued an [interim final rule](#) that will revise Regulation Z to reflect the 12-month LIBOR. As noted above, Regulation Z's commentary to the closed-end refinancing rules did not refer to the 12-month LIBOR. Those rules and that commentary address what modifications to closed-end loans are considered refinancing transactions. Certain refinancing transactions trigger new disclosures, new ability-to-repay analysis and rescission, all to the extent applicable. Among other things, the interim final rule will revise that commentary to reflect transitioning from the 12-month LIBOR.

The interim final rule will also revise Regulation Z to reflect the FRB's January 2023 final rule. In the December 2021 final rule, the CFPB referred to "the spread-adjusted index based on SOFR recommended by the [ARRC] for consumer products." To make those references in sync with the FRB's January 2023 final rule, the CFPB's April 2023 interim final rule will change them to be "the Board-selected benchmark replacement index for consumer loans."

The CFPB's interim final rule will be effective on May 15, 2023. It will accept comments on the interim final rule for 30 days after the rule is published in the Federal Register (which, as of this update's publication, has yet to happen).

As an ancillary development to the Regulation Z interim final rule, the CFPB also updated its [LIBOR Transition FAQs](#) to reflect the interim final rule and FRB's LIBOR final rule, among other things. It is noteworthy that the CFPB did not revise the FAQ (ARMs FAQ #10) that addresses what index the initial interest rate adjustment notice and payment change notice should reflect during the LIBOR transition.

Buchalter's financial services regulatory compliance attorneys have been regularly advising clients on transitioning their loans from LIBOR and stand ready to do so for your institution.



**[Stephanie Shea](#)**

Shareholder  
(949) 224-6463  
[sshea@buchalter.com](mailto:sshea@buchalter.com)



**[Michael Flynn](#)**

Of Counsel  
(303) 253-6750  
[mflynn@buchalter.com](mailto:mflynn@buchalter.com)



**[Artin Betpera](#)**

Shareholder  
(949) 224-6422  
[abetpera@buchalter.com](mailto:abetpera@buchalter.com)



**[R. Chad Pugh](#)**

Shareholder  
(801) 401-8637  
[cpugh@buchalter.com](mailto:cpugh@buchalter.com)



**[Melissa Richards](#)**

Of Counsel  
(415) 227-3543  
[mrichards@buchalter.com](mailto:mrichards@buchalter.com)