LIBOR Transition FAQs

The questions and answers below pertain to compliance with existing Bureau regulations for consumer financial products and services impacted by the anticipated LIBOR discontinuation and resulting need to transition to other indices. Except as otherwise noted, requirements discussed are currently in effect and not the subject of the Bureau's proposed LIBOR rulemaking. The guidance addresses current Bureau regulatory requirements for both existing accounts and new originations as they complete the steps necessary to discontinue use of LIBOR. Other legal requirements may also apply.

All Consumer Financial Products and Services

NOTE: The questions and answers in this section apply to all consumer financial products and services impacted by the LIBOR transition.

QUESTION 1:

What is the "LIBOR transition?"

ANSWER (UPDATED 6/4/2020)**:**

The "LIBOR transition" references both the anticipated discontinuation of LIBOR (and LIBOR-based indices), as well as the preparations financial institutions, government agencies, and other entities are making to transition businesses from LIBOR-based indices.

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/, that explains the Bureau's approach to Compliance Aids.

Sometime after 2021, LIBOR is expected to end. This change will affect some adjustable (or variable) rate loans and lines of credit, such as adjustable-rate mortgages (ARMs), reverse mortgages, home equity lines of credit (HELOCs), credit cards, student loans, and any other consumer loans that use LIBOR as the index. For consumer financial products and services, financial entities are developing their approach to the LIBOR transition, including how to transition existing accounts from LIBOR to another index and selecting new indices for new originations going forward.

In the U.S., the Federal Reserve has convened a group called the Alternative Reference Rates Committee (ARRC) to help facilitate the likely transition away from the use of LIBOR as an index. The ARRC is comprised of a diverse set of private-sector entities in markets affected by LIBOR, and a wide array of official-sector entities, including banking and financial sector regulators (such as the Bureau) as non-voting, ex-officio members. The ARRC is working to identify affected product types and help industries identify the steps needed to complete the transition, such as, making contract revision and replacement index selection recommendations. More information about the LIBOR transition and ARRC recommendations on preparing for the transition can be found on the ARRC's website.

In addition, the Bureau has published for public comment a proposed rule that would, when final, amend certain existing Regulation Z requirements to facilitate the LIBOR transition. The LIBOR Transition Proposed Rule can be found here.

Concurrently, the Bureau has provided guidance, in more detail below, to address existing regulatory provisions affected by the LIBOR transition related to ARM loan program origination notices, ARM servicing notices, HELOC loan program origination notices and Alternative Mortgage Transaction Parity Act (AMTPA) requirements.

QUESTION 2:

Are there specific regulatory or statutory requirements creditors need to consider as they prepare to transition impacted consumers away from the LIBOR index?

ANSWER (UPDATED 6/4/2020)**:**

Yes. Creditors have regulatory and statutory requirements impacted or triggered by the LIBOR transition for both new and existing consumer accounts. For certain consumer financial products and services, statutes and regulations may have specific requirements that are triggered or impacted by the LIBOR transition and any accompanying index change. For

example, Regulation Z has requirements for certain products regarding consumer notification of a change to the contract terms, limits on when the index can change, and requirements for selecting an appropriate replacement index. Additionally, creditors will want to be cognizant of other standard regulatory and statutory requirements, such as prohibitions in the Dodd-Frank Act on unfair, deceptive, or abusive acts or practices, and continue to follow their normal business practices in assessing and mitigating risk in those areas while completing the LIBOR transition.

The following list highlights certain Bureau regulatory provisions impacted by the LIBOR transition. Creditors and card issuers of variable-rate products using LIBOR as an index will want to consider these identified provisions, as well as other federal and state requirements and guidance, when making any LIBOR-related changes to the consumer's index or other loan terms.

Please note that we have tagged with an asterisk (*) those provisions that the Bureau has proposed to amend.

CLOSED-END PRODUCTS AND SERVICES

1) Adjustable-Rate Mortgages:

- Origination disclosure requirements for the adjustable-rate loan program disclosure, particularly the loan program example (12 CFR § 1026.19(b)(2));
- Refinancing provisions governing whether changing to a particular replacement index is considered a refinancing, and triggering, for example, new transaction disclosures and new ATR/QM determinations, as applicable (12 CFR § 1026.20(a); Comment 20(a)-3.ii)*;
- Servicing disclosure requirements on the content and format of mortgage servicing notices, such as interest rate adjustment notices and periodic statements (12 CFR §§ 1026.20(c), (d), and .41); and
- For alternative mortgage transaction ARMs, limitations on increasing the interest rate or finance charge (12 CFR § 1004.4(a)(2)).

2) Student Loans:

- Refinancing provisions governing whether changing to a particular replacement index is considered a refinancing and triggering, for example, new transaction disclosures, as applicable (12 CFR § 1026.20(a); Comment 20(a)-3.ii)*.

3) Other Closed-End Products and Services (e.g., Auto Loans, Personal Installment Loans):

- Refinancing provisions governing whether changing to a particular replacement index is considered a refinancing and triggering, for example, new transaction disclosures, as applicable (12 CFR § 1026.20(a); Comment 20(a)-3.ii)*.

OPEN-END PRODUCTS AND SERVICES

1) Credit Cards:

- Index change requirements, including limitations on changing the index used to determine the annual percentage rate (APR) for variable rate accounts and the requirements for identifying a replacement index (12 CFR § 1026.55(b)(2); Comment 55(b)(2)-6)*;
- Change-in-terms notice requirements (12 CFR § 1026.9(c)(2))*; and
- Reevaluations of rate increases and the index used as a benchmark for comparison (12 CFR § 1026.59)*.

2) HELOCs (including Open-End Reverse Mortgages):

- Index change requirements, including limitations on changing an index and the requirements for identifying a replacement index (12 CFR § 1026.40(f))*;
- Change-in-terms notice requirements (12 CFR § 1026.9(c)(1))*;
- Origination disclosure requirements, particularly the loan program example (12 CFR § 1026.40(d)(12)); and
- For alternative mortgage transaction HELOCs, limitations on increasing the interest rate or finance charge (12 CFR § 1004.4(a)).

3) Other Open-End (not Home-Secured) Products and Services (e.g., overdraft lines of credit):

- Change-in-terms notice requirements (12 CFR § 1026.9(c)(2))*.

Adjustable-Rate Mortgage Products

NOTE: The questions and answers in this section apply to closed-end adjustable-rate mortgage (ARM) products and services.

QUESTION 1:

Will the LIBOR transition affect ARM loan program origination disclosures?

ANSWER (UPDATED 6/4/2020)**:**

Yes, for some loan programs. Regulation Z, 12 CFR § 1026.19(b) requires, among other things, that a creditor provide ARM loan program origination disclosures in a transaction secured by the consumer's principal dwelling where the loan term is greater than one year. Such disclosures related to the index include as applicable, the index or formula used, explanations of how the interest rate and payment will be determined, and rules relating to changes in the index or interest rate (among other loan terms), such as an explanation of interest rate limitations. 12 CFR § 1026.19(b)(2).

Additionally, the creditor must disclose a loan program example illustrating the effect of interest rate changes. 12 CFR § 1026.19(b)(2)(viii). At the option of the creditor, this disclosure may be either (or both):

- **Historical Example:** A historical example, based on a $10,000 loan amount, illustrating the interest rate impacts on the payments and loan balance for the most recent 15 years of index values for the consumer's loan program terms (12 CFR § 1026.19(b)(2)(viii)(A)); or
- **Initial and Maximum Example:** The initial and maximum interest rates and payments based on a $10,000 loan amount and a statement that the payment may increase or decrease substantially depending on rate changes (12 CFR § 1026.19(b)(2)(viii)(B)).

The LIBOR transition may impact the loan program example disclosure, depending on which index the creditor selects for new accounts. For more information on the potential impact, see LIBOR Adjustable-Rate Mortgage FAQ 2, below.

QUESTION 2:

When providing ARM loan program origination disclosures, how does a creditor disclose the historical example for indices, such as the SOFR-based indices, that do not yet have 15 years of values?

ANSWER (UPDATED 6/4/2020)**:**

For ARM loan program origination disclosures, Regulation Z, 12 CFR § 1026.19(b) requires, among other things, a loan program example disclosure illustrating the impacts of interest rate changes given the loan program terms. 12 CFR § 1026.19(b)(2)(viii).

The loan program example disclosure may be either (or both):

- **Historical Example:** A historical example, based on a $10,000 loan amount, illustrating the interest rate impacts on the payments and loan balance for the most recent 15 years of index values for the consumer's loan program terms (12 CFR § 1026.19(b)(2)(viii)(A)); or
- **Initial and Maximum Example:** The initial and maximum interest rates and payments based on a $10,000 loan amount and a statement that the payment may increase or decrease substantially depending on rate changes (12 CFR § 1026.19(b)(2)(viii)(B)).

If the creditor selects an index that has not been available for 15 years, such as one of the SOFR-based indices, and chooses to provide the historical example in the disclosure, the creditor need only provide index values that go back as far as values are available. Comment 19(b)(2)(viii)(A)-1. For example, index values for the "30-day Average SOFR Index," published by the Federal Reserve Board of New York, are available beginning on May 2, 2018. Index values for May 2, 2018, through February 28, 2020, can be found on the Federal Reserve Board of New York's website in this downloadable excel spreadsheet. Index values for March 2, 2020, to the present can be found here. Information about the index and using these values can be found here.

QUESTION 3:

Will the CHARM Booklet be affected by the LIBOR transition?

ANSWER (UPDATED 6/4/2020)**:**

Yes. In addition to the ARM loan program origination disclosure, applicants for ARMs that will be secured by the consumer's dwelling and have a loan term greater than one year also must receive a booklet titled Consumer Handbook on Adjustable Rate Mortgages (CHARM booklet), or a suitable substitute, generally when the application is provided. 12 CFR § 1026.19(b)(1).

The CHARM booklet was revised to, among other things, remove the historical comparison example that used LIBOR as an index for comparison.

Creditors may, at their option, immediately begin using the revised CHARM booklet, or a suitable substitute, to comply with the requirements in Regulation Z. However, creditors may also use earlier versions of the CHARM booklet until existing supplies are exhausted. When reprinting the CHARM booklet, the most recent version should be used.

More information about the updates to the CHARM booklet can be found here. The revised CHARM Booklet is available here.

QUESTION 4:

Which ARM servicing disclosures will the LIBOR transition affect?

ANSWER (UPDATED 6/4/2020)**:**

Generally, none.

Regulation Z requires certain disclosures for ARMs after origination occurs. Most notably, mortgage servicing disclosures include, as applicable:

- The initial interest rate adjustment notice, which alerts the consumer to the initial reset of the ARM (i.e., the initial interest rate adjustment), and provides the consumer with information about the loan at the initial reset. It is provided months prior to the event. 12 CFR § 1026.20(d).
- The subsequent interest rate adjustment notice, which alerts the consumer to subsequent interest rate adjustments, and provides the consumer with information about the new interest rate and periodic payment prior to each subsequent adjustment that results in a payment change. 12 CFR § 1026.20(c).
- The periodic statement, which provides the consumer with mortgage loan account information, including alerting the consumer to upcoming interest rate changes and periodic payment changes, for each billing cycle. 12 CFR § 1026.41.

Generally, the LIBOR transition will not change the timing or types of information required for these three mortgage servicing disclosures. However, Regulation Z places limitations on the content and format of these disclosures, which may be relevant if servicers are considering whether they can add information that is not required, including about the LIBOR transition.

For more information about the LIBOR transition impacts on the mortgage servicing disclosures and periodic statements, including the content and format limitations, see LIBOR Adjustable-Rate Mortgage FAQs 4, 5, 6, and 7 below.

For more information on these mortgage servicing disclosures generally, see Section 5 and 6 of the Mortgage Servicing Small Entity Compliance Guide.

QUESTION 5:

Will the LIBOR transition trigger the ARM interest rate adjustment notices for existing loans?

ANSWER (UPDATED 6/4/2020)**:**

Generally, no. The initial ARM interest rate adjustment notice is required to be provided months prior to the initial interest rate adjustment (except loans with terms of one year or less). 12 CFR § 1026.20(d). Subsequent notices are triggered only if the adjustment results in a payment change. 12 CFR § 1026.20(c).

Generally, the method for addressing the sunset of LIBOR is to change the index, and thus, the source from which the interest rate for the adjustment is derived. In most cases, this index change will not disrupt the contract's schedule of interest rate adjustments. As a result, for most accounts, the ARM interest rate adjustment notices will continue on the same schedule established prior to the LIBOR transition.

But note, if the creditor changes the interest rate or the schedule for the interest rate adjustments at the same time it changes the index from LIBOR, the interest rate or schedule change may trigger the initial or subsequent ARM interest rate adjustment notices. If it is the first interest rate change for the loan, in general, the initial rate adjustment disclosure must be sent (at least 210 days, but no more than 240 days, before the first payment at the adjusted level is due). 12 CFR § 1026.20(d). If it is not the first interest rate change for the loan and the change results in a new payment amount, the creditor generally must provide the ongoing interest rate adjustment notice (at least 60 days, but no more than 120 days, before the first payment at the adjusted level is due). 12 CFR § 1026.20(c)(2).

For more information on the ARM interest rate adjustment notices, see Section 6 of the Mortgage Servicing Small Entity Compliance Guide.

QUESTION 6:

What index should a creditor identify in the ARM interest rate adjustment notices if the interest rate is scheduled to change while the creditor is transitioning the account to a new index for existing loans?

ANSWER (UPDATED 6/4/2020)**:**

Regulation Z, 12 CFR §§ 1026.20(c)(2) and (d)(2) require that ARM interest rate adjustment notices disclose the index used in making interest rate adjustments and explain how payments

are determined. The disclosures must reflect the legal obligations of the consumer and creditor when the disclosures are provided. Comment 17(c)(1)-1.

In some cases, the contract has scheduled interest rate changes that will occur while the creditor is transitioning the account from LIBOR. In these cases, disclosures must reflect the legal obligations of the consumer and creditor when the disclosures are provided. 12 CFR § 1026.17(c)(1); Comment 17(c)(1)-1.

For example, assume a consumer's ARM contract currently states that the next interest rate adjustment will be based on a LIBOR index and that this contract term is legally binding under state law. Assume also that the creditor is working to complete the steps in each of its mortgage contracts to transition all of its mortgage accounts away from LIBOR indices before the sunset. However, for this particular consumer's account, the creditor has not yet taken those contractual steps to change the index at the time the interest rate adjustment notice is provided. Because the creditor has not yet taken the contractual steps to transition the index from LIBOR to another index, Regulation Z requires that the interest rate adjustment notice disclosure reference the LIBOR-based index.

In addition, if this occurs when sending the initial interest rate adjustment notice, because the new interest rate (and the new payment calculated from the new interest rate) are not known as of the date of the disclosure, the initial interest rate adjustment notice disclosure should include estimates and be labeled as estimates. 12 CFR § 1026.20(d)(2).

For more information on the ARM interest rate adjustment notices, see Section 6 of the Mortgage Servicing Small Entity Compliance Guide.

QUESTION 7:

May information be added to the ARM interest rate adjustment notices to notify the consumer of the LIBOR transition for existing loans?

ANSWER (UPDATED 6/4/2020)**:**

No. Information other than that required by the regulation (i.e., identifying the applicable index, payment, etc.) may not be added into the disclosure itself. However, the rule provides some flexibility for servicers to communicate additional information to the consumer when sending the notices, so long as that information is not provided within the ARM notice itself.

For the initial interest rate adjustment notice, Regulation Z requires that the disclosures be provided in the same order as and be substantially similar to the forms in Appendix H of

Regulation Z. 12 CFR § 1026.20(d)(3). The notice must also be on a separate document from other documents provided to the consumer. 12 CFR § 1026.17(a)(1); Comment 20(d)-3. Therefore, the creditor may not include unrequired information about the LIBOR transition in the ARM notice or include LIBOR transition information on the same piece of paper as the ARM notice.

But note, the creditor may provide additional information in the same envelope as the ARM initial interest rate adjustment notice. Comment 20(d)-3. Thus, while a servicer may not include additional information in the notice itself, it may, but is not required to, place a separate LIBOR transition notice document in the same envelope it uses to send the initial interest rate adjustment notice to the consumer.

For the subsequent interest rate adjustment notices, the regulation requires that the disclosures be provided in the same order as and be substantially similar to the forms in Appendix H of Regulation Z. 12 CFR § 1026.20(c)(3)(i). However, there is no requirement that the subsequent interest rate adjustment notices be in a separate document. Thus, a creditor may place additional LIBOR transition-related information in the same document as the subsequent interest rate adjustment notice, so long as the information is segregated from the disclosures itself, and the subsequent interest rate adjustment notice is substantially similar to the model forms and still clear and conspicuous.

Creditors may also send notices regarding the LIBOR transition separately from the ARM interest rate adjustment notices at any time.

For more information on the ARM interest rate adjustment notices, see Section 6 of the Mortgage Servicing Small Entity Compliance Guide.

QUESTION 8:

May a creditor add information to the periodic statement to notify the consumer of the LIBOR transition for existing loans?

ANSWER (UPDATED 6/4/2020)**:**

Generally, yes. Regulation Z, 12 CFR § 1026.41(c) requires that the disclosures in the periodic statement be written clearly and conspicuously. Creditors are not prohibited from adding to the periodic statement, as long as the additional information does not “overwhelm or obscure” the required disclosures. Comments 41(c)-1 and -2. Sample form H-30(B) provides an example of how to add additional information.

For more information on mortgage periodic statement requirements from the Mortgage Servicing Rule, see Section 5 of the Mortgage Servicing Small Entity Compliance Guide.

QUESTION 9:

Are there Regulation D alternative mortgage transaction ARM index requirements to be considered by applicable creditors in the LIBOR transition?

ANSWER (UPDATED 6/4/2020)**:**

Yes.

For reference, an "Alternative Mortgage Transaction" is a loan, credit sale or account:

- That is secured by an interest in a residential structure, with one–to–four units, whether or not that structure is attached to real property;
- Made primarily for personal, family or household purposes; and
- In which the interest rate or finance charge may be adjusted or renegotiated. 12 CFR § 1004.2.

For applicable alternative mortgage transaction ARMs under Regulation D, increases to the interest rate or finance charge are subject to certain limitations. See, e.g., 12 CFR § 1004.4(a). Creditors of certain existing alternative mortgage transaction ARMs transitioning away from LIBOR should review these requirements when selecting a replacement index.

Home Equity Line of Credit Products

NOTE: The questions and answers in this section apply to home equity lines of credit (HELOCs), including open-end reverse mortgages where applicable in the regulation.

QUESTION 1:

Are HELOC origination disclosures impacted by the LIBOR transition?

ANSWER (UPDATED 6/4/2020)**:**

Yes. Regulation Z, 12 CFR § 1026.40 generally requires, among other things, that creditors provide certain disclosures about the plan at the time consumers are provided a HELOC application. Like other loan origination disclosures required by Regulation Z, the requirements

include disclosures, as applicable, about the security interest, payment terms, variable rate information, fees, and other key plan terms.

Among those disclosures, a creditor is required to disclose a historical example, based on a $10,000 extension of credit, illustrating how the APRs and payments would have been affected by index value changes over the last 15 years. 12 CFR § 1026.40(d)(12)(xi).

This disclosure may be impacted by the LIBOR transition, depending on which index the creditor selects for new accounts. LIBOR Home Equity Line of Credit FAQ 2, below, provides more detail on the impacts the LIBOR transition may have on this disclosure.

QUESTION 2:

When providing HELOC origination disclosures, how does a creditor disclose the historical example for indices, such as the SOFR indices, that do not yet have 15 years of values?

ANSWER (UPDATED 6/4/2020)**:**

On the HELOC loan origination disclosures, Regulation Z, 12 CFR § 1026.40(d)(12)(xi) requires that creditors disclose a historical example illustrating how the APRs and payments would have been affected by index value changes over the past 15 years.

For indices, such as the SOFR-based indices, that have not been available for 15 years, the creditor may start the example at the year for which the index values are first available. Comment 40(d)(12)(xi)-1. For example, index values for the "30-day Average SOFR Index," published by the Federal Reserve Board of New York, are available beginning on May 2, 2018. Index values for May 2, 2018 through February 28, 2020 can be found on the Federal Reserve Board of New York's website in this downloadable excel spreadsheet. Index values for March 2, 2020 to the present can be found here. Information about the index and using these values can be found here.

The historical values used must be reflective of the method of choosing index values for the plan. However, a creditor must only provide one index value per year, even if adjustments occur more than annually, and must use the same date or period for each year. Comment 40(d)(12)(xi)-2.

QUESTION 3:

Are there Regulation D alternative mortgage transaction HELOC index requirements to be considered by applicable creditors in the LIBOR transition?

ANSWER (UPDATED 6/4/2020)**:**
Yes.

For reference, an "Alternative Mortgage Transaction" is a loan, credit sale or account:

- That is secured by an interest in a residential structure, with one–to–four units, whether or not that structure is attached to real property;
- Made primarily for personal, family or household purposes; and
- In which the interest rate or finance charge may be adjusted or renegotiated. 12 CFR § 1004.2.

For applicable alternative mortgage transaction HELOCs under Regulation D, increases to the interest rate or finance charge are subject to certain limitations. 12 CFR § 1004.4(a). Creditors of certain existing alternative mortgage transaction HELOCs transitioning away from LIBOR should review these requirements when selecting a replacement index.