

June 6, 2022

Via email to director@fasb.org

Ms. Hillary Salo, Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: Reference Rate Reform (Topic 848) and Derivatives and Hedging (Topic 815): Deferral of the Sunset Date of Topic 848 and Amendments to the Definition of the Secured Overnight Financing Rate (SOFR) Overnight Index Swap Rate (File Reference No. 2022-001)

Dear Ms. Salo:

Attached are the American Financial Exchange (AFX)'s responses to your four queries. We read with interest the Financial Accounting Standards Board's (FASB's) proposal to approve Term SOFR as a benchmark and we agree. However, we firmly believe there is room for FASB to improve the recommendations by including AMERIBOR and AMERIBOR Term 30. The recent freedom of choice in LIBOR replacement benchmarks which was codified in the "Adjustable Interest Rate (LIBOR) Act", Section 106 (b) – "Benchmarks Used by Banks" of the 2022 Consolidated Appropriations Act, signed into law by the President on March 15, 2022¹ clearly states that banks may use "any benchmark, including a benchmark that is not SOFR, that the bank determines to be appropriate"; and "that no Federal supervisory agency may take any covered action against the bank solely because that benchmark is not SOFR".

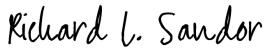
AFX has 231 members in all 50 states and Puerto Rico and provides access to more than 1,100 U.S. banks through its membership and downstream correspondent program; furthermore, AFX bank members now represent over \$5.3 trillion in U.S. bank assets (approximately 25% of total U.S. bank assets). AFX also represents 40% of U.S. Minority Depository Institutions (MDIs) by asset size. These institutions include regional, community, and minority depository institutions across the country, many of whom have already submitted letters to FASB in support of AMERIBOR. As you know, we have supplied information to the board and staff of FASB, and we would be happy to update that information and/or answer any remaining questions.

AMERIBOR is an IOSCO-compliant benchmark that is widely used in the market. AMERIBOR Term-30 is derived using a robust data set with an average of approximately \$50 billion in unique transactions a day. Based on the logic for approving Term SOFR, we strongly urge FASB to concomitantly approve AMERIBOR Term 30 as a benchmark.

We believe in brevity when responding to requests for comments but stand ready to answer any questions about this letter or the attached answers.

¹ **Public Law No: 117-103. Consolidated Appropriations Act, 2022, H.R.2471 — 117th Congress, full text at <https://www.congress.gov/117/bills/hr2471/BILLS-117hr2471enr.pdf>**

Respectfully,

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Richard L. Sandor
Chairman and CEO
American Financial Exchange

Received by:

Hillary Salo, Technical Director

Issue 1: Deferral of the Sunset Date of Topic 848

Question 1: Do you agree with the Board's decision to defer the sunset date of Topic 848 to a December 31, 2024 sunset date? If not, what date would you choose and why? Yes.

Question 2: Do you agree with the proposed transition guidance and effective date for this issue? If not, please explain why not. Yes.

Issue 2: Amendments to the Definition of the Secured Overnight Financing Rate (SOFR) Overnight Index Swap Rate

Question 3: Are the amendments in this proposed Update to the definition of the term Secured Overnight Financing Rate (SOFR) Overnight Index Swap Rate clear that other rates based on SOFR, such as SOFR term, are within the scope of the revised definition? If not, what clarifications would you make and why?

We believe it is healthy for US financial markets to have choice in benchmarks. FASB's inclusion of SOFR Term as an approved rate is a step in the right direction but it opens up an entire new asset class definition. Given FASB is making such a bold statement by adding a brand-new asset class (SOFR Term) logic requires that other appropriate credit-sensitive interest rate benchmarks (such as AMERIBOR) should be approved. This is consistent with freedom of choice in LIBOR replacement benchmarks which was recently codified in the "Adjustable Interest Rate (LIBOR) Act", Section 106 (b) – "Benchmarks

Used by Banks” of the 2022 Consolidated Appropriations Act, signed into law by the President on March 15, 2022². The section states that:

With respect to a benchmark used by a bank— (1) the bank, in any non-IBOR loan made before, on, or after the date of enactment of this Act, may use any benchmark, including a benchmark that is not SOFR, that the bank determines to be appropriate for the funding model of the bank; the needs of the customers of the bank; and the products, risk profile, risk management capabilities, and operational capabilities of the bank; provided, however, that the use of any benchmark shall remain subject to the terms of the non-IBOR loan, and applicable law; and (2) no Federal supervisory agency may take any covered action against the bank solely because that benchmark is not SOFR.

We respectfully request that FASB follows what is now the law and approve AMERIBOR Term 30 as an approved benchmark. We have already formally requested overnight AMERIBOR to be approved by FASB as a benchmark. You have a unique opportunity to take a leadership role in support of regional, community, and minority depository institutions.

Question 4: Do you agree with the proposed transition guidance and effective date for this issue? If not, please explain why not

Yes, provided that FASB uses the same logic for other credit-sensitive interest rates.

² Public Law No: 117-103. Consolidated Appropriations Act, 2022, H.R.2471 — 117th Congress, full text at <https://www.congress.gov/117/bills/hr2471/BILLS-117hr2471enr.pdf>