July 27, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
House of Representatives
Washington, D.C.  20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

The Honorable Brad Sherman
Chair
Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets
House of Representatives
Washington, D.C. 20515

The Honorable Bill Huizenga
Ranking Member
Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets
House of Representatives
Washington, D.C. 20515

Dear Chairwoman Waters, Ranking Member McHenry, Chair Sherman and Ranking Member Huizenga:

Following up on my testimony before the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets in April 2021, I am writing in regard to the Adjustable Interest Rate (LIBOR) Act of 2021 (“the Act”) that is under consideration this week in the House Financial Services Committee. As you may recall, in my testimony, I described certain high-level principles regarding federal LIBOR legislation:

Federal legislation would establish a clear and uniform framework, on a nationwide basis, for replacing LIBOR in legacy contracts that do not provide for an appropriate fallback rate. Federal legislation should be targeted narrowly to address legacy contracts that have no fallback language, that have fallback language referring to LIBOR or to a poll of banks, or that convert to fixed-rate instruments. Federal legislation should not affect legacy contracts with fallbacks to another floating rate, nor should federal legislation dictate that market participants must use any particular benchmark rate in future contracts. Finally, to avoid conflict of laws problems, federal legislation should pre-empt any outstanding state legislation on legacy LIBOR contracts.¹

The Act is consistent with the principles I described in my testimony: it is targeted narrowly to address legacy LIBOR contracts that lack a clearly defined or practicable benchmark replacement; it pre-empts state laws that provide for the selection or use of a benchmark

replacement in legacy LIBOR contracts; and it does not disfavor the use of any benchmark rate on a prospective basis. Importantly, the Act would promote a smooth transition away from LIBOR by promoting legal certainty and limiting litigation related to legacy LIBOR contracts.

We appreciate the Committee’s work to address this important issue.

Sincerely,

Mark Van Der Weide
General Counsel