February 2, 2021

Honorable Kevin Thomas New York State Senate Legislative Office Building, Room 947 Albany, NY 12247	Honorable Kenneth Zebroswki New York State Assembly Legislative Office Building, Room 625 Albany, NY 12248

Dear Chairmen Thomas and Zebrowski

The New York Mortgage Bankers Association (NYMBA)[1] and the national Mortgage Bankers Association (MBA)[2] are writing to express our thanks and support to you both for the introduction of your companion bills (S.0297/A.00164) to facilitate the transition of financial contracts – including adjustable-rate residential and commercial mortgages – away from the LIBOR benchmark. Our organizations have been actively engaged in the official efforts to transition the mortgage markets away from LIBOR in a manner that minimizes the potential for disruption for borrowers as well as litigation risk for market participants.

Because it is widely expected that most tenors of U.S. Dollar LIBOR will be discontinued or deemed unsuitable for use by June 30, 2023, it is vital for your colleagues in the state Senate and Assembly to appreciate the importance of enacting legislation now to prepare for this transition. As much as $200 trillion in contracts – representing more than 10 times the U.S.

[1] The New York Mortgage Bankers Association, Inc. (NYMBA), is a 501(c)(6) not-for-profit statewide organization devoted exclusively to the field of real estate finance. NYMBA's rapidly growing membership is comprised of both bank and non-bank mortgage lenders and servicers, as well as a wide variety of mortgage industry-related firms. NYMBA encourages its members to engage only in sound and ethical business practices and informs its members of changes in the laws and regulations affecting the mortgage business. The association helps those engaged in or affected by the mortgage business to be better informed and more knowledgeable. It is dedicated to the maintenance of a strong real estate finance system. This involves support for a strong economy, a public-private partnership for the production and maintenance of single and multi-family homeownership opportunities, and a strong secondary mortgage market. Additional information can be found on our website: www.NYMBA.org.

[2] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,100 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, credit unions, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

gross domestic product – are indexed to U.S. Dollar LIBOR, including approximately $1 trillion in residential mortgages and another $1 trillion in commercial mortgages.[3]

Many of these contracts did not contemplate the permanent discontinuation of LIBOR when they were consummated, and therefore do not contain adequate fallback language to address this situation. Your bills would transition any contracts (including adjustable-rate residential and commercial mortgages) without robust fallback options to a recommended index – likely the Secured Overnight Financing Rate (SOFR). Your approach also would provide safe harbors in certain situations when contracts are transitioned from LIBOR to the recommended index. These provisions would clarify the options available to borrowers, servicers, and investors – reducing the likelihood of value transfer, disputes, or unnecessary litigation.

Legislation similar to your bills was introduced during the 116th Congress, but was not enacted into law. Thus, a law in New York would be viewed as a helpful step to provide certainty should Congress not pass a bill before the discontinuation of LIBOR. Many LIBOR-indexed contracts are governed by New York law, putting the state Senate and Assembly in position to help facilitate a smooth transition.

NYMBA and MBA are pleased Governor Cuomo recently included the language of your bills in his FY2022 proposed state budget[4] and view that statement as a promising development to achieve speedy enactment. Clearly, New York lawmakers recognize the important role they have apropos to New York's financial markets and the global economy.

Thank you again for your leadership on this important matter. Should you or your staff have questions, please feel free to contact Christina Wiley at the NYMBA (cwiley@nymba.org) and Pete Mills at the MBA (pmills@mba.org).

Respectfully,

Christina Wiley
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New York Mortgage Bankers Association

Pete Mills
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Mortgage Bankers Association

[3] *Alternative Reference Rates Committee, Second Report*, March 2018. Available at: https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-Second-report.

[4] The budget documents include the language for legislation (see page 233) from companion bills S.0297/A.0164.