Alternative Reference Rate Committee:

Via email submission to: arrc@ny.frb.org

TD Bank Group ("**TD**") welcomes the opportunity to respond to the ARRC consultation regarding more robust LIBOR fallback contract language for new LIBOR based securitizations. TD recognizes the need for the identification of industry standards and best practices in determining effective fallback language for the identification of alternative rates and calculation of effective, non-value transfer spreads to prevent market disruption in the event that LIBOR does not exist or is not viable beyond the end of 2021. In addition, TD appreciates the efforts of the ARRC Securitizations Working Group in developing a consultation that takes into consideration discussions in the derivatives market, given the benefits of consistency across cash and derivatives products.

Response to Questions:

1) Which securitization asset classes are you referring to in your response to this consultation if limited to only certain asset classes? If there are particular features of these asset classes that shape your responses to the questions in this survey, please describe them to the extent possible.

TD believes that fallback language in this consultation would be able to apply to all asset classes applicable to our private securitizations.

2: The ISDA triggers contemplate a permanent cessation of LIBOR as of a date certain which may be announced in advance (the "Cessation Date"), at which point the transition from LIBOR to SOFR would occur. As there may be operational challenges for securitizations as both assets and liabilities will have to be transitioned, some have asked for the ability to transition in advance of the Cessation Date in order to address any operational issues that may arise. Specifically, the Designated Transaction Representative will have the ability to pick one date within a 30-day period prior to the Cessation Date to facilitate an orderly transition. Do you feel the inclusion of this ability to transfer prior to the Cessation Date is needed? If so, please explain the specific, critical and tangible needs that support its inclusion?

TD's primary concern is ensuring consistency with the derivatives market in order to avoid increased basis risk. While we understand operational challenges, we believe that basis risk concerns outweigh operational risk concerns and would therefore support moving from LIBOR to SOFR on the same date as the ISDA triggers contemplate to avoid creating any unnecessary basis risk for the transaction.

3(a): Should fallback language for securitizations include any of the pre-cessation trigger (clause 3,4,5,6 of the proposed discontinuation event definition)? If so, which ones? Also, please identify any pre-cessation triggers that you do not believe should be utilized for a particular securitization product and explain why.

Our products are heavily dependent on an exact match with a derivative hedge and we would therefore want to avoid any basis risk where possible. While we understand the potential benefits pre-cessation triggers could have for facilitating a smooth transition, inclusion of these could result in the securitization moving to a new rate ahead of the underlying derivative hedge. Given the sensitivity of basis risk in our products we would not support the use pre-cessation triggers unless we are able to include similar pre-cessation triggers in the derivative hedge fallback language.

3(b): Please indicate whether any concerns you have about these pre-cessation triggers relate to the differences between these securitization triggers and those for standard derivatives or whether your concerns relate specifically to the pre-cessation triggers themselves.

Yes, see above.

3(c): If you believe that the pre-cessation trigger in clause (6) (Asset Replacement Percentage) should not be retained, please note any specific concerns leading to this conclusion. If you believe that it should be retained, are there any changes you believe should be made to this trigger? Please explain.

TD does not securitize any assets that are inherently LIBOR based products. Everything securitized is either a fixed rate asset or an asset that does not charge any yield (i.e. accounts receivable) and therefore this is not an applicable concern. But, it would be applicable in limited cases where floating rate assets are being securitized and there are no hedging instruments in place.

3(d): If you believe the pre-cessation trigger in clause (6) (Asset Replacement Percentage) should be retained, how would you address concerns that it could result in a transfer of value in a transaction where the Designated Transaction Representative has the ability to change the benchmark used on the underlying assets and, as a result, determine the timing of this pre-cessation trigger? Are there other changes that should be made to the Asset Replacement Percentage trigger?

See 3(c) above.

4): Should the proposed securitization fallback language permit the Designated Transaction Representative to transition the securities after a trigger has occurred but before the Benchmark Replacement Date? Should any limitations be placed on its use? Should there be a date range (e.g., 60 days) prior to the Benchmark Replacement Date in which this could be used? Should the Designated Transaction Representative be limited in the circumstances under which it could elect to utilize the additional time? If so, what standard should be utilized to assess whether the additional time is necessary?

This language should mirror what is done in the derivatives market, as we would not want to transition to take place before (or after) the derivatives market.

5(a): If the ARRC has recommended a forward-looking term rate, should the rate be the primary fallback for securitizations referencing LIBOR even though derivatives are expected to reference overnight versions of SOFR? Please explain.

TD's primary concern is ensuring alignment with derivative hedges. Securitizations are more sensitive to delta observed in product hedges. Therefore, we believe that if derivatives market is referencing overnight compounded SOFR, securitizations should reference the same rate. Most securitization structures can handle changes in rates via discounting, so its best to keep the product aligned with the floating rate leg of the derivative.

5(b): Is there a specific reason that the securitization market should first fall back to forward- looking term SOFR instead of another rate?

See comments above.

5(c): Is the use of an Interpolated Rate appropriate in the securitization markets? Please explain any limitations that should be applied to the use of an Interpolated Period.

Securitization can use interpolated rates as needed, there are no particular concerns.

5(d): In the event a Replacement Benchmark is determined other than under Step 1 of the waterfall, should the waterfall provide that the Replacement Benchmark be changed in the future as soon as the rate can be established under Step 1 of the waterfall?

Yes.

6(a): Should Compound SOFR be the second step in the waterfall? Would this preference be influenced by whether ISDA implements fallbacks referencing compounded SOFR or overnight SOFR?

As mentioned, TD's primary concern is alignment with derivatives. Given that derivatives appear to be implementing fallbacks referencing compounded SOFR, we would support this approach.

6(b): If you believe that Compounded SOFR should be included, would a Compounded SOFR in advance or Compounded SOFR in arrears be preferable? Would this preference be influenced by whether ISDA implements fallbacks referencing Compounded SOFR "in arrears" or "in advance"? Please explain whether your preference is based on operational concerns in implementing a particular approach or on economic concerns.

TD generally supports compounded SOFR in arrears on the basis that the majority of current deals settles in arrears. However, we also note that this preference is client dependent.

6(c): If it was necessary to calculate Compounded SOFR and a third party was not available to perform those calculations, are there parties to the Securitization transaction with sufficient resources to perform those calculations accurately and efficiently? Are there other considerations relating to the calculation of Compound SOFR that would make it an undesirable Replacement Benchmark without the availability of a third party provider?

This would need to be determined on a transaction by transaction basis. In order to mitigate litigation risk for any parties to the securitization transaction performing those calculations, TD believes that the calculation methodology would need to be made publicly available and enough information would need to be provided to the client in order to be able to validate the rate.

7: This consultation does not include Spot SOFR as a third step in the waterfall. Do you believe that Spot SOFR is an appropriate fallback reference rate for Securitization contracts or should the second step in the waterfall be Compounded SOFR, followed by rate recommended by the Relevant Governmental Body, followed by current ISDA Definitions, followed by rate proposed by the Designated Transaction Representative?

TD believes that Spot SOFR would be an appropriate step in the waterfall before a rate proposed by the Designated Transaction Representative. We believe that this would mitigate some litigation risk by limiting discretion for the Designated Transaction Representative and would make sense to reference if there is no other rate available.

8: If there is no SOFR-based fallback rate, is the replacement rate determined by the Relevant Governmental Body the best alternative at this level of the waterfall? Please explain why.

Yes, TD believes that there will be a client expectation that the rate should be consistent with that recommended by the Relevant Governmental Body if SOFR is not available. And we would also want to ensure that this language follows the same approach as the derivatives market.

9: In the future circumstance where there is no SOFR-based fallback rate and the Relevant Governmental Body has not recommended a replacement rate for Securitizations, is the fallback for SOFR-linked derivatives as per the ISDA definition at the time of cessation the best alternative at this level of the waterfall? Is this fallback appropriate if ISDA Definitions only include overnight fallback rates?

Yes, as discussed, TD's primary concern is alignment with the derivatives market and consistency with the ISDA definition will ensure this approach.

10(a): Since it is unlikely that there will be no ISDA fallback, step 5 is more likely to occur when the ISDA fallback is deemed not appropriate for securitization securities. In that scenario, is step 5 appropriate as the final step in the Replacement Benchmark waterfall?

Yes, in this circumstance, step 5 is appropriate, as TD believes that the Designated Transaction Representative would only have discretion to deem the ISDA fallback not appropriate for securitization securities if this is aligned with the majority of the securitizations market.

10(b): Should the provision allow for "re-testing" the waterfall to determine whether another Replacement Benchmark has become available in the scenario where investors have rejected the Proposed Replacement Benchmark? Should the waterfall be re-tested in any other circumstances?

TD believes that programs should keep retesting on an "as needed" basis. There should be an obligation on the Agent to re-test the waterfall as soon as there is a new rate available or other change in circumstances.

11: Are there any concerns if a spread adjustment was utilized with cash products that was calculated by a spot rate comparison of the difference between LIBOR and the Replacement Base Rate at the time of conversion? Should this option be included in the spread waterfall? If so, where?

TD believes this option should be added as step 3 in the waterfall. Any pre-determined spread available from a government body or from a pre-determined fallback will minimize the need to negotiate an acceptable spread adjustment independently. It will make sense to include this language though as a third alternative because a spread adjustment will be required to "true up" between LIBOR and the new rate.

12: Do you believe that ARRC should consider recommending a spread adjustment that could apply to cash products, including Securitizations?

Securitizations rely on the basis that exists between overnight and LIBOR as additional revenue. Funding costs are lower on a LIBOR basis, but if the replacement rate is overnight based, its likely funding costs will be higher as a result and TD would want to ensure that the commercial pricing adjusts for this change in cost. Furthermore, the spread adjustment should also reflect the risk differential between the replacement rate and Libor related to term and other risk factors.

13(a): Is a spread adjustment applicable to fallbacks for derivatives under the ISDA definitions appropriate as the second priority in the spread waterfall? Please explain.

Yes, given the concern of alignment with derivatives and a desire to avoid potential conflicts between how the derivatives team at TD would reprice vs securitization. It's important that all products across TD are aligned in terms of the spread, such that there is no pricing conflict for multiple products presented to a Treasury Team.

13(b) If ARRC has recommended a forward-looking term SOFR but has not recommended a corresponding spread under Step 1, do you believe the ISDA spread adjustment (which may be intended to apply to a different Replacement Base Rate) should apply to securitizations?

Difficult to determine and not sure how the ISDA spread adjustment will work. Would only believe this is appropriate if the ISDA spread adjustment is also in relation to term SOFR.

13(c): Given that ISDA has not yet decided upon the spread calculation methodology, should step 2 be excluded from the waterfall?

No, it is TD's understanding that ISDA will determine a spread calculation methodology prior to a cessation event.

14(a): What type of institution can/should take on the responsibility to (i) determine whether the proposed triggers have occurred, (ii) select screens where reference rates or spreads are to be found, (iii) make calculation of a rate or spread in the absence of published screen rates, (iv) interpolated term SOFR if there is a missing middle maturity, (v) elect to cause an early transition under the proviso to the definition of Benchmark Replacement Date?

TD believes that parties that typically function as "Agent" should be able to act as Designated Transaction Representative and perform the above functions.

14(b): Whether as an issuer, sponsor, servicer or calculation agent, would your institution be willing to (i) determine whether the proposed triggers have occurred, (ii) select screens where reference rates or spreads are to be found, (iii) make calculations of a rate or spread in the absence of published screen rates, (iv) interpolate term SOFR if there is a missing middle maturity and/or (v) elect to cause an early transition under the proviso to the definition of Benchmark Replacement Date?

When acting as Agent, TD is able to perform the above functions.

15: Is there any provision in the proposal that would significantly impede Securitization issuances? If so, please provide a specific and detailed explanation.

TD does not see any provision in the proposal that would significantly impede Securitization issuances.

16: Given the fallback language for the Securitization and the underlying assets may operate independently, please identify any sources of misalignment between those components that are not addressed in the consultation.

Generally, assets in TD deals are fixed rate, or zero yield; very few trades have floating rate underlying assets. Therefore we are not concerned about misalignment between the language in the securitization and the fallback language in the underlying asset.

17*: *Are there specific operational challenges that implementing the proposed fallback language might create for securitizations? If so, what are those challenges and under what circumstances might they occur? How might they be mitigated?

TD, along with the rest of the industry is currently undergoing a review of existing systems to ensure that they have the ability to move to a new fallback rate.

18: Please provide any additional feedback on any aspect of the proposal.

TD does not have any additional feedback to provide at this time.