S.2508 / A.3008, Part PP

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BILL	SUBJECT	DATE	
S.2508 / A.3008, Part PP	Discontinuance of LIBOR	February 18, 2021	SUPPORT

The Business Council supports S.2508 / A.3008 Part PP, which would replace the disappearing LIBOR benchmark in financial contracts with the SOFR benchmark.

LIBOR, the benchmark interest rate for instruments such as student loans, mortgages and much more, is going offline at the end of this year around the world. As such, the Alternative Reference Rates Committee (ARRC) — a public-private committee convened and sponsored by the Federal Reserve to facilitate the transition from the LIBOR in the U.S. — has been working on a smooth transition to an alternative rate benchmark. The ARRC has concluded that the use of the Secured Overnight Financing Rate, or SOFR would offer a suitable alternative.

The switch to the SOFR benchmark would largely go unnoticed by most. New contracts will simply utilize the SOFR as a benchmark rather than the LIBOR and there will be no impact on lender or borrower. However, legacy contracts that were drafted before the announced end of the LIBOR benchmark, do not have effective fallback language and cannot realistically be amended without litigation. The ambiguity in these contracts, caused by the phasing-out of LIBOR must be dealt with to avoid a financial and legal log-jam that would clog New York's courts for years to come.

The budget provision found in S.2508 / A.3008, Part PP is the best option to mitigate any problems after LIBOR's end. Since New York law is used in the vast majority of legacy contracts nationwide, this solution matters far beyond New York. The legislation guarantees that no borrower is disadvantaged by the change of benchmark and that the operation of law is essentially a pro forma change to contract to avoid ambiguity and unnecessary and unwanted litigation.

This budget provision has broad support and has no downside to lender or borrower. It is a necessary change and simply put, good policy all around. The Business Council supports inclusion of S.2508 / A.3008, Part PP in the final budget.