

business enterprises owned and controlled by socially and economically disadvantaged individuals), to provide technical assistance to business enterprises owned and controlled by socially and economically disadvantaged individuals applying to—

(A) State programs under the Program; and

(B) other State or Federal programs that support small businesses.

(Pub. L. 111-240, title III, § 3009, Sept. 27, 2010, 124 Stat. 2580; Pub. L. 117-2, title III, § 3301(a)(1)(F), (d), Mar. 11, 2021, 135 Stat. 69, 70.)

AMENDMENTS

2021—Subsecs. (c), (d). Pub. L. 117-2, § 3301(a)(1)(F), substituted “March 11, 2021” for “September 27, 2010”. Subsec. (e). Pub. L. 117-2, § 3301(d), added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-2 applicable with respect to funds appropriated under section 3301 of Pub. L. 117-2 and funds appropriated on and after Mar. 11, 2021, see section 3301(g) of Pub. L. 117-2, set out as a note under section 5701 of this title.

§ 5709. Regulations

The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue such regulations and other guidance as the Secretary determines necessary or appropriate to implement this chapter including to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this chapter.

(Pub. L. 111-240, title III, § 3010, Sept. 27, 2010, 124 Stat. 2581.)

§ 5710. Oversight and audits

(a) Inspector General oversight

The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the use of funds made available under the Program.

(b) Required certification

(1) Financial institutions certification

With respect to funds received by a participating State under the Program, any financial institution that receives a loan, a loan guarantee, or other financial assistance using such funds after March 11, 2021, shall certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions, as that term is defined in section 5312(a)(2) and (c)(1)(A) of title 31, to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) Sex offense certification

With respect to funds received by a participating State under the Program, any private entity that receives a loan, a loan guarantee, or other financial assistance using such funds after March 11, 2021, shall certify to the participating State that the principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 20911 of title 34).

(c) Prohibition on pornography

None of the funds made available under this chapter may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

(Pub. L. 111-240, title III, § 3011, Sept. 27, 2010, 124 Stat. 2581; Pub. L. 113-188, title IX, § 901(d), Nov. 26, 2014, 128 Stat. 2020; Pub. L. 117-2, title III, § 3301(a)(1)(G), Mar. 11, 2021, 135 Stat. 69.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-2 substituted “March 11, 2021” for “September 27, 2010” in pars. (1) and (2).

2014—Subsecs. (b) to (d). Pub. L. 113-188 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress containing the results of such audit.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-2 applicable with respect to funds appropriated under section 3301 of Pub. L. 117-2 and funds appropriated on and after Mar. 11, 2021, see section 3301(g) of Pub. L. 117-2, set out as a note under section 5701 of this title.

CHAPTER 55—ADJUSTABLE INTEREST RATE (LIBOR)

Sec.	
5801.	Findings and purpose.
5802.	Definitions.
5803.	LIBOR contracts.
5804.	Continuity of contract and safe harbor.
5805.	Benchmark for loans.
5806.	Preemption.
5807.	Rulemaking.

§ 5801. Findings and purpose

(a) Findings

Congress finds that—

(1) LIBOR is used as a benchmark rate in more than \$200,000,000,000 worth of contracts worldwide;

(2) a significant number of existing contracts that reference LIBOR do not provide for the use of a clearly defined or practicable replacement benchmark rate when LIBOR is discontinued; and

(3) the cessation or nonrepresentativeness of LIBOR could result in disruptive litigation related to existing contracts that do not provide for the use of a clearly defined or practicable replacement benchmark rate.

(b) Purpose

It is the purpose of this chapter—

(1) to establish a clear and uniform process, on a nationwide basis, for replacing LIBOR in existing contracts the terms of which do not provide for the use of a clearly defined or practicable replacement benchmark rate, without affecting the ability of parties to use any appropriate benchmark rate in new contracts;

(2) to preclude litigation related to existing contracts the terms of which do not provide for the use of a clearly defined or practicable replacement benchmark rate;

(3) to allow existing contracts that reference LIBOR but provide for the use of a clearly defined and practicable replacement rate, to operate according to their terms; and

(4) to address LIBOR references in Federal law.

(Pub. L. 117–103, div. U, §102, Mar. 15, 2022, 136 Stat. 825.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this division”, meaning div. U of Pub. L. 117–103, Mar. 15, 2022, 136 Stat. 825, known as the Adjustable Interest Rate (LIBOR) Act, which is classified principally to this chapter. For complete classification of div. U to the Code, see Short Title note set out below and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 117–103, div. U, §101, Mar. 15, 2022, 136 Stat. 825, provided that: “This division [enacting this chapter and amending section 77ppp of Title 15, Commerce and Trade, and section 1087–1 of Title 20, Education] may be cited as the ‘Adjustable Interest Rate (LIBOR) Act’.”

§ 5802. Definitions

In this chapter:

(1) Benchmark

The term “benchmark” means an index of interest rates or dividend rates that is used, in whole or in part, as the basis of or as a reference for calculating or determining any valuation, payment, or other measurement.

(2) Benchmark administrator

The term “benchmark administrator” means a person that publishes a benchmark for use by third parties.

(3) Benchmark replacement

The term “benchmark replacement” means a benchmark, or an interest rate or dividend rate (which may or may not be based in whole or in part on a prior setting of LIBOR), to replace LIBOR or any interest rate or dividend rate based on LIBOR, whether on a temporary, permanent, or indefinite basis, under or with respect to a LIBOR contract.

(4) Benchmark replacement conforming changes

The term “benchmark replacement conforming changes” means any technical, administrative, or operational changes, alterations, or modifications that—

(A) the Board determines, in its discretion, would address 1 or more issues affecting the implementation, administration, and calculation of the Board-selected benchmark replacement in LIBOR contracts; or

(B) solely with respect to a LIBOR contract that is not a consumer loan, in the reasonable judgment of a calculating person, are otherwise necessary or appropriate to permit the implementation, administration, and calculation of the Board-selected benchmark replacement under or with respect to a LIBOR contract after giving due consideration to any benchmark replacement conforming changes under subparagraph (A).

(5) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

(6) Board-selected benchmark replacement

The term “Board-selected benchmark replacement” means a benchmark replacement identified by the Board that is based on SOFR, including any tenor spread adjustment pursuant to section 5803(e) of this title.

(7) Calculating person

The term “calculating person” means, with respect to any LIBOR contract, any person, including the determining person, responsible for calculating or determining any valuation, payment, or other measurement based on a benchmark.

(8) Consumer; credit

The terms “consumer” and “credit” have the meanings given the terms in section 1602 of title 15.

(9) Consumer loan

The term “consumer loan” means a consumer credit transaction.

(10) Determining person

The term “determining person” means, with respect to any LIBOR contract, any person with the authority, right, or obligation, including on a temporary basis (as identified by the LIBOR contract or by the governing law of the LIBOR contract, as appropriate) to determine a benchmark replacement.

(11) Fallback provisions

The term “fallback provisions” means terms in a LIBOR contract for determining a benchmark replacement, including any terms relating to the date on which the benchmark replacement becomes effective.

(12) IBOR

The term “IBOR” means LIBOR, any tenor of non-U.S. dollar currency rates formerly known as the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any predecessor or successor administrator thereof), and any other interbank offered rates that are expected to cease.