the member has elected to receive electronic communications from the Federal credit union, may be provided electronically.

"(4) REINSTATEMENT.—

"(A) IN GENERAL.—A member expelled under this subsection—

"(i) shall be given an opportunity to request reinstatement of membership; and

"(ii) may be reinstated by either—

"(I) a majority vote of a quorum of the directors of the Federal credit union; or

"(II) a majority vote of the members of the Federal credit union present at a meeting.

"(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require that an expelled member be allowed to attend the meeting described in subparagraph (A)(ii) in person.

"(5) CAUSE DEFINED.—In this subsection, the term 'cause' means—

"(A) a substantial or repeated violation of the membership agreement of the Federal credit union;

"(B) a substantial or repeated disruption, including dangerous or abusive behavior (as defined by the National Credit Union Administration Board pursuant to a rulemaking), to the operations of a Federal credit union; or

"(C) fraud, attempted fraud, or other illegal conduct that a member has been convicted of in relation to the Federal credit union, including the Federal credit union's employees conducting business on behalf of the Federal credit union.";

(4) in subsection (d), as so redesignated—

(A) by striking "either subsection (a) or (b)" and inserting "subsection (a), (b), or (c)"; and

(B) by striking "him" and inserting "the member"; and

(5) by adding at the end the following:

"(e) NO AUTHORITY TO EXPEL CLASSES OF MEMBERS.—An expulsion of a member pursuant to this section shall be done individually, on a case-by-case basis, and neither the Board nor any Federal credit union may expel a class of members.".

DIVISION U—ADJUSTABLE INTEREST RATE (LIBOR) ACT

SEC. 101. SHORT TITLE.

This division may be cited as the "Adjustable Interest Rate (LIBOR) Act".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) LIBOR is used as a benchmark rate in more than $200,000,000,000,000 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 division—

(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.

SEC. 103. DEFINITIONS.

In this division:

(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 104(e).

(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 103 of the Truth in Lending Act (15 U.S.C. 1602).

(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.

(13) IBOR BENCHMARK REPLACEMENT.—The term "IBOR 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 an IBOR), to replace an IBOR or any interest rate or dividend rate based on an IBOR, whether on a temporary, permanent, or indefinite basis, under or with respect to an IBOR contract.

(14) IBOR CONTRACT.—The term "IBOR contract" means any contract, agreement, indenture, organizational document, guarantee, mortgage, deed of trust, lease, security (whether representing debt or equity, including any interest in a corporation, a partnership, or a limited liability company), instrument, or other obligation or asset that, by its terms, continues in any way to use an IBOR as a benchmark.

(15) LIBOR.—The term "LIBOR"—

(A) means the overnight and 1-, 3-, 6-, and 12-month tenors of U.S. dollar LIBOR (formerly known as the London interbank offered rate) as administered by ICE Benchmark Administration Limited (or any predecessor or successor administrator thereof); and

(B) does not include the 1-week or 2-month tenors of U.S. dollar LIBOR.

(16) LIBOR CONTRACT.—The term "LIBOR contract" means any contract, agreement, indenture, organizational document, guarantee, mortgage, deed of trust, lease, security (whether representing debt or equity, including any interest in a corporation, a partnership, or a limited liability company), instrument, or other obligation or asset that, by its terms, uses LIBOR as a benchmark.

(17) LIBOR REPLACEMENT DATE.—The term "LIBOR replacement date" means the first London banking day after June 30, 2023, unless the Board determines that any LIBOR tenor will cease to be published or cease to be representative on a different date.

(18) SECURITY.—The term "security" has the meaning given the term in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)).

(19) SOFR.—The term "SOFR" means the Secured Overnight Financing Rate published by the Federal Reserve Bank of New York (or a successor administrator).

(20) TENOR SPREAD ADJUSTMENT.—The term "tenor spread adjustment" means—

(A) 0.00644 percent for overnight LIBOR;

(B) 0.11448 percent for 1-month LIBOR;

(C) 0.26161 percent for 3-month LIBOR;

(D) 0.42826 percent for 6-month LIBOR; and

(E) 0.71513 percent for 12-month LIBOR.

SEC. 104. LIBOR CONTRACTS.

(a) IN GENERAL.—On the LIBOR replacement date, the Board-selected benchmark replacement shall be the benchmark replacement for any LIBOR contract that, after giving any effect to subsection (b)—

(1) contains no fallback provisions; or

(2) contains fallback provisions that identify neither—

(A) a specific benchmark replacement; nor

(B) a determining person.

(b) FALLBACK PROVISIONS.—On the LIBOR replacement date, any reference in the fallback provisions of a LIBOR contract to—

(1) a benchmark replacement that is based in any way on any LIBOR value, except to account for the difference between LIBOR and the benchmark replacement; or

(2) a requirement that a person (other than a benchmark administrator) conduct a poll, survey, or inquiries for quotes or information concerning interbank lending or deposit rates;

shall be disregarded as if not included in the fallback provisions of such LIBOR contract and shall be deemed null and void and without any force or effect.

(c) AUTHORITY OF DETERMINING PERSON.—

(1) IN GENERAL.—Subject to subsection (f)(2), a determining person may select the Board-selected benchmark replacement as the benchmark replacement.

(2) SELECTION.—Any selection by a determining person of the Board-selected benchmark replacement pursuant to paragraph (1) shall be—

(A) irrevocable;

(B) made by the earlier of the LIBOR replacement date and the latest date for selecting a benchmark replacement according to the terms of the LIBOR contract; and

(C) used in any determinations of the benchmark under or with respect to the LIBOR contract occurring on and after the LIBOR replacement date.

(3) NO SELECTION.—If a determining person does not select a benchmark replacement by the date specified in paragraph (2)(B), the Board-selected benchmark replacement, on and after

the LIBOR replacement date, shall be the benchmark replacement for the LIBOR contract.

(d) CONFORMING CHANGES.—

(1) IN GENERAL.—If the Board-selected benchmark replacement becomes the benchmark replacement for a LIBOR contract pursuant to subsection (a) or (c), all benchmark replacement conforming changes shall become an integral part of the LIBOR contract.

(2) NO CONSENT REQUIRED.—A calculating person shall not be required to obtain consent from any other person prior to the adoption of benchmark replacement conforming changes.

(e) ADJUSTMENT BY BOARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), on the LIBOR replacement date, the Board shall adjust the Board-selected benchmark replacement for each category of LIBOR contract that the Board may identify to include the relevant tenor spread adjustment.

(2) CONSUMER LOANS.—For LIBOR contracts that are consumer loans, the Board shall adjust the Board-selected benchmark replacement as follows:

(A) During the 1-year period beginning on the LIBOR replacement date, incorporate an amount, to be determined for any business day during that period, that transitions linearly from the difference between the Board-selected benchmark replacement and the corresponding LIBOR tenor determined as of the day immediately before the LIBOR replacement date to the relevant tenor spread adjustment.

(B) On and after the date that is 1 year after the LIBOR replacement date, incorporate the relevant tenor spread adjustment.

(f) RULE OF CONSTRUCTION.—Nothing in this division may be construed to alter or impair—

(1) any written agreement specifying that a LIBOR contract shall not be subject to this division;

(2) except as provided in subsection (b), any LIBOR contract that contains fallback provisions that identify a benchmark replacement that is not based in any way on any LIBOR value (including the prime rate or the effective Federal funds rate);

(3) except as provided in subsection (b) or (c)(3), any LIBOR contract subject to subsection (c)(1) as to which a determining person does not elect to use a Board-selected benchmark replacement pursuant to that subsection;

(4) the application to a Board-selected benchmark replacement of any cap, floor, modifier, or spread adjustment to which LIBOR had been subject pursuant to the terms of a LIBOR contract;

(5) any provision of Federal consumer financial law that—

(A) requires creditors to notify borrowers regarding a change-in-terms; or

(B) governs the reevaluation of rate increases on credit card accounts under open-ended (not home-secured) consumer credit plans; or

(6) except as provided in section 105(c), the rights or obligations of any person, or the authorities of any agency, under Federal consumer financial law, as defined in section 1002

of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

SEC. 105. CONTINUITY OF CONTRACT AND SAFE HARBOR.

(a) IN GENERAL.—A Board-selected benchmark replacement and the selection or use of a Board-selected benchmark replacement as a benchmark replacement under or with respect to a LIBOR contract, and any benchmark replacement conforming changes, shall constitute—

(1) a commercially reasonable replacement for and a commercially substantial equivalent to LIBOR;

(2) a reasonable, comparable, or analogous rate, index, or term for LIBOR;

(3) a replacement that is based on a methodology or information that is similar or comparable to LIBOR;

(4) substantial performance by any person of any right or obligation relating to or based on LIBOR; and

(5) a replacement that has historical fluctuations that are substantially similar to those of LIBOR for purposes of the Truth in Lending Act (15 U.S.C. 1601 note) and regulations promulgated under that division.

(b) NO IMPAIRMENT.—Neither the selection or use of a Board-selected benchmark replacement as a benchmark replacement nor the determination, implementation, or performance of benchmark replacement conforming changes under section 104 may—

(1) be deemed to impair or affect the right of any person to receive a payment, or to affect the amount or timing of such payment, under any LIBOR contract; or

(2) have the effect of—

(A) discharging or excusing performance under any LIBOR contract for any reason, claim, or defense (including any force majeure or other provision in any LIBOR contract);

(B) giving any person the right to unilaterally terminate or suspend performance under any LIBOR contract;

(C) constituting a breach of any LIBOR contract; or

(D) voiding or nullifying any LIBOR contract.

(c) SAFE HARBOR.—No person shall be subject to any claim or cause of action in law or equity or request for equitable relief, or have liability for damages, arising out of—

(1) the selection or use of a Board-selected benchmark replacement;

(2) the implementation of benchmark replacement conforming changes; or

(3) with respect to a LIBOR contract that is not a consumer loan, the determination of benchmark replacement conforming changes,

in each case after giving effect to the provisions of section 104; provided, however, that in each case any person (including a calculating person) shall remain subject to the terms of a LIBOR contract that are not affected by this division and any existing legal, regulatory, or contractual obligations to correct servicing or other ministerial errors under or with respect to a LIBOR contract.

(d) SELECTION.—The selection or use of a Board-selected benchmark replacement or the determination, implementation, or performance of benchmark replacement conforming changes under section 104 shall not be deemed to—

(1) be an amendment or modification of any LIBOR contract; or

(2) prejudice, impair, or affect the rights, interests, or obligations of any person under or with respect to any LIBOR contract.

(e) NO NEGATIVE INFERENCE.—Except as provided in subsections (a), (b), or (c)(1) of section 104, nothing in this division may be construed to create any negative inference or negative presumption regarding the validity or enforceability of—

(1) any benchmark replacement (including any method for calculating, determining, or implementing an adjustment to the benchmark replacement to account for any historical differences between LIBOR and the benchmark replacement) that is not a Board-selected benchmark replacement; or

(2) any changes, alterations, or modifications to or with respect to a LIBOR contract that are not benchmark replacement conforming changes.

SEC. 106. BENCHMARK FOR LOANS.

(a) DEFINITIONS.—In this section:

(1) BANK.—The term "bank" means an institution subject to examination by a Federal financial institutions regulatory agency.

(2) COVERED ACTION.—The term "covered action" means—

(A) the initiation by a Federal supervisory agency of an enforcement action, including the issuance of a cease-and-desist order; or

(B) the issuance by a Federal supervisory agency of a matter requiring attention, a matter requiring immediate attention; or a matter requiring board attention resulting from a supervisory activity conducted by the Federal supervisory agency.

(3) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY.—The term "Federal financial institutions regulatory agencies" has the meaning given the term in section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302).

(4) FEDERAL SUPERVISORY AGENCY.—The term "Federal supervisory agency" means an agency listed in subparagraphs (A) through (H) of section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7)).

(5) NON-IBOR LOAN.—The term "non-IBOR loan" means any loan that, by its terms, does not use in any way 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, as a benchmark.

(b) BENCHMARKS USED BY BANKS.—With respect to a benchmark used by a bank—

(1) the bank, in any non-IBOR loan made before, on, or after the date of enactment of this Act, may use any benchmark, including a benchmark that is not SOFR, that the bank determines to be appropriate for the funding model of the bank; the needs of the customers of the bank; and the products, risk profile, risk management capabilities, and operational capabilities of the bank; provided, however, that the use of

any benchmark shall remain subject to the terms of the non-IBOR loan, and applicable law; and

(2) no Federal supervisory agency may take any covered action against the bank solely because that benchmark is not SOFR.

SEC. 107. PREEMPTION.

This division, and regulations promulgated under this division, shall supersede any provision of any State or local law, statute, rule, regulation, or standard—

(1) relating to the selection or use of a benchmark replacement or related conforming changes; or

(2) expressly limiting the manner of calculating interest, including the compounding of interest, as that provision applies to the selection or use of a Board-selected benchmark replacement or benchmark replacement conforming changes.

SEC. 108. TRUST INDENTURE ACT OF 1939.

Section 316(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp(b)) is amended—

(1) by striking ", except as" and inserting ", except—

"(1) as";

(2) in paragraph (1), as so designated, by striking "(a), and except that" and inserting "(a);

"(2) that";

(3) in paragraph (2), as so designated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(3) that the right of any holder of any indenture security to receive payment of the principal of and interest on such indenture security shall not be deemed to be impaired or affected by any change occurring by the application of section 104 of the Adjustable Interest Rate (LIBOR) Act to any indenture security.".

SEC. 109. AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965.

Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end the following:

"(viii) REVISED CALCULATION RULE TO ADDRESS INSTANCES WHERE 1-MONTH USD LIBOR CEASES OR IS NON-REPRESENTATIVE.—

"(I) SUBSTITUTE REFERENCE INDEX.—The provisions of this clause apply to loans for which the special allowance payment would otherwise be calculated pursuant to clause (vii).

"(II) CALCULATION BASED ON SOFR.—For loans described in subclause (III) or (IV), the special allowance payment described in this subclause shall be substituted for the payment provided under clause (vii). For each calendar quarter, the formula for computing the special allowance that would otherwise apply under clause (vii) shall be revised by substituting 'of the quotes of the 30-day Average Secured Overnight Financing Rate (SOFR) in effect for each of the days in such quarter as published by the Federal Reserve Bank of New York (or a successor administrator),

adjusted daily by adding the tenor spread adjustment, as that term is defined in the Adjustable Interest Rate (LIBOR) Act, for 1-month LIBOR contracts of 0.11448 percent' for 'of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association'. The special allowance calculation for loans subject to clause (vii) shall otherwise remain in effect.

"(III) LOANS ELIGIBLE FOR SOFR-BASED CALCULATION.—Except as provided in subclause (IV), the special allowance payment calculated under subclause (II) shall apply to all loans for which the holder (or, if the holder acts as an eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan) at any time after the effective date of this clause notifies the Secretary that the holder or beneficial owner affirmatively and permanently elects to waive all contractual, statutory, or other legal rights to a special allowance paid under clause (vii) or to the special allowance paid pursuant to any other formula that was previously in effect with respect to such loan, and accepts the rate described in subclause (II). Any such waiver shall apply to all loans then held, or to be held from time to time, by such holder or beneficial owner; provided that, due to the need to obtain the approval of, demonstrated to the satisfaction of the Secretary—

"(aa) one or more third parties with a legal or beneficial interest in loans eligible for the SOFR-based calculation; or

"(bb) a nationally recognized rating organization assigning a rating to a financing secured by loans otherwise eligible for the SOFR-based calculation,

the holder of the loan (or, if the holder acts as an eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan) may elect to apply the rate described in subclause (II) to specified loan portfolios established for financing purposes by separate notices with different effective dates. The special allowance rate based on SOFR shall be effective with respect to a portfolio as of the first day of the calendar quarter following the applicable effective date of the waiver received by the Secretary from the holder or beneficial owner and shall permanently and irrevocably continue for all subsequent quarters.

"(IV) FALLBACK PROVISIONS.—

"(aa) In the event that a holder or beneficial owner has not elected to waive its rights to a special allowance payment under clause (vii) with respect to a portfolio with an effective date of the waiver prior to the first of—

"(AA) the date on which the ICE Benchmark Administration ('IBA') has permanently or indefinitely stopped providing the 1-month United States Dollar LIBOR ('1-month USD LIBOR') to the general public;

"(BB) the effective date of an official public statement by the IBA or its regulator that the 1-month USD LIBOR is no longer reliable or no longer representative; or

"(CC) the LIBOR replacement date, as defined in section 103 of the Adjustable Interest Rate (LIBOR) Act,

the special allowance rate calculation as described in subclause (II) shall, by operation of law, apply to all loans in such portfolio.

"(bb) In such event—

"(AA) the last determined rate of special allowance based on 1-month USD LIBOR will continue to apply until the end of the then current calendar quarter; and

"(BB) the special allowance rate calculation as described in subclause (II) shall become effective as of the first day of the following calendar quarter and remain in effect for all subsequent calendar quarters.".

SEC. 110. RULEMAKING.

Not later than 180 days after the date of enactment of this Act, the Board shall promulgate regulations to carry out this division.

DIVISION V—HAITI DEVELOPMENT, ACCOUNTABILITY, AND INSTITUTIONAL TRANSPARENCY INITIATIVE ACT

SEC. 101. SHORT TITLE.

This division may be cited as the "Haiti Development, Accountability, and Institutional Transparency Initiative Act".

SEC. 102. STATEMENT OF POLICY.

It is the policy of the United States to support the sustainable rebuilding and development of Haiti in a manner that—

(1) recognizes Haitian independence, self-reliance, and sovereignty;

(2) promotes efforts that are led by and support the people and Government of Haiti at all levels so that Haitians lead the course of reconstruction and development of Haiti;

(3) contributes to international efforts to facilitate conditions for broad, inclusive, and sustained political dialogue among the different actors in Haiti to restore democratic legitimacy and institutions in Haiti;