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July 28, 2021

VIA EMAIL

Legislative Reference Library
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Re: In the Matter of the Proposed Permanent Rules Governing Supplemental Student Loans; Minnesota Rules, Chapter 4850; OAH Docket Number 60-9031-37587; Revisor's ID R-4688

Dear Legislative Reference Library:

The Minnesota Office of Higher Education intends to adopt rules governing supplemental student loans. We plan to publish a Dual Notice in the *State Register* on August 2, 2021.

The office has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, section 14.131, the office is sending the library an electronic copy of the Statement of Need and Reasonableness.

If you have any questions, please contact me at marilyn.kosir@state.mn.us or 651-355-0600.

Sincerely,

Marilyn Kosir, Student Loan Manager

Enclosure: Statement of Need and Reasonableness

Statement of Need and Reasonableness:

Proposed Permanent Rules Relating to Supplemental Student Loans

07/21 /2021

About the Minnesota Office of Higher Education

The Minnesota Office of Higher Education is a cabinet-level state agency providing students with financial aid programs and information to help them gain access to postsecondary education. The agency also serves as the state's clearinghouse for data, research, and analysis on postsecondary enrollment, financial aid, finance, and trends.

The Minnesota State Grant Program is the largest financial aid program administered by the Office of Higher Education, awarding more than $210 million annually in need-based grants to Minnesota residents attending eligible colleges, universities, and career schools in Minnesota. The agency oversees other state scholarship programs, tuition reciprocity programs, a student loan program, Minnesota's 529 College Savings Plan, licensing, and early college awareness programs for youth.

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Introduction

Proposed - Permanent Rules Relating to Supplemental Student Loans, Minnesota Rules, Chapter 4850; Revisor's ID Number R-4688; OAH Docket Number 60-9031-37587

The mission of the Minnesota Office of Higher Education (office) is "to support the pursuit and completion of a higher education credential by every Minnesotan, regardless of race, gender, or socio-economic status, in order to enhance our democracy, the State's economic vitality, and individual quality of life." In support of the mission, the office administers the Student Educational Loan Fund (SELF) program, which is a source of financial aid helping students achieve financial access to postsecondary education. Supplemental student loan programs, including the SELF program, were authorized over 35 years ago during the 1983 Minnesota legislative session.

The SELF Loan is a long-term, low-interest student loan to assist Minnesota residents and nonresidents finance their education while attending participating SELF schools. Students must complete the Free Application for Federal Student Aid (FAFSA) before applying for the SELF Loan to ensure the student receives federal and state grant funds before taking on loan debt. As part of the student's overall financial aid package, the SELF Loan is intended to supplement federal loans offered directly to the student. The interest rate is not based on a person's credit history, as is the case for many private student loans. This is an advantage to borrowers to know the interest rate before applying.

Minnesota Statutes, section 136A.1701, subdivision 10, prohibits the use of state money to fund student loans. Therefore, the program needs to be self-sustaining with all expenses, including the cost of defaulted loans, covered by program revenue that is primarily interest paid by borrowers and cosigners.

The proposed rules are intended to:

- increase the value of the program to borrowers and cosigners;
- align and update definitions and language and eliminate definitions not referenced in rules; and
- provide flexibility to respond to the needs of borrowers and cosigners.

The office did not use an advisory committee specifically created to review the proposed rule changes; however, the changes were reviewed with the Student Advisory Council and the Financial Aid Advisory Committee.

The Student Advisory Council is authorized under Minnesota Statutes, section 136A.031, and includes the following members:

- the chair of the University of Minnesota student senate;
- the state chair of the Minnesota State University Student Association;

- the president of the Minnesota State College Student Association;
- officers of the Minnesota State College Student Association, one in a community college course of study and one in a technical college course of study;
- a student who is enrolled in a private nonprofit postsecondary institution, to be elected by students enrolled in Minnesota Private College Council institutions;
- a student who is enrolled in a private career school, to be elected by students enrolled in Minnesota private career schools; and
- a student who is enrolled in a Minnesota tribal college to be elected by students enrolled in Minnesota tribal colleges.

The Financial Aid Advisory Committee is comprised of Minnesota financial aid administrators working at various postsecondary institutions including the types of institutions listed under the Student Advisory Council.

The Request for Comments was published on January 11, 2021, and closes on September 2, 2021, at 4:30 p.m., according to the Dual Notice published in the *State Register.*

This SONAR is made available for public review on July 30, 2021.

Alternative Format

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Marilyn Kosir at the Minnesota Office of Higher Education.

Statutory Authority

The office is authorized to operate supplemental loan programs and adopt rules under Minnesota Statutes, section 136A.16.

Regulatory Analysis

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) quote these factors and provide the office’s response.

“(1) a description of the classes of persons who probably will be affected by the proposed rules, including classes that will bear the costs of the proposed rules and classes that will benefit from the proposed rule.”

Individual Borrowers and Cosigners

Proposed changes in the rules will benefit borrowers and cosigners by:

- allowing more flexibility in the payment of interest to permit a minimum interest amount to be paid instead of the full interest due;
- allowing more flexibility for borrowers to return to school and interest-only payments;
- allowing borrowers to use the SELF program for prerequisites;
- providing a longer period to rehabilitate a defaulted loan;
- allowing for natural disaster forbearances to be offered;
- clarifying cosigner credit eligibility criterion at the time of loan approval; and
- clarifying loan suspension or forgiveness in the case of temporary or permanent disability.

Individuals who may not benefit would be:

- students unable to use the SELF Loan because they do not have a cosigner who meets credit requirements to obtain a loan based on a minor change in eligibility criteria.

The office does not estimate any classes will bear costs from the rule.

Postsecondary Institutions

Postsecondary institutions will benefit if more students can use the SELF program and pay bills owed to the institution. More flexibility for borrowers to pay interest, permitting natural disaster forbearances, and increasing the time to rehabilitate a defaulted loan will result in lower institutional default rates.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.”

Enhancing credit requirements for the cosigner and allowing a minimum payment of interest during in-school and transition periods may result in lower default rates for the SELF program, which has a positive financial impact. There would be some costs to the office associated with modifications that would need to be made by the loan servicer to accommodate the proposed changes. However, some of those costs may be offset by reductions in delinquency and default if the borrower has more payment options.

There is no state funding for the loan program, so there is no impact on state revenues, and the proposed rules do not affect other state agencies.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.”

The proposed rule changes would require some modifications to be made by the loan servicer, and those would need to be paid for through program funds. Overall, the proposed changes would more likely result in decreased costs from lower delinquency and default rates and more potential borrowers using the SELF Loan program.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.”

The office is modifying SELF Loan definitions to eliminate the specific reference to LIBOR as the index rate and expand existing authority of the Commissioner under Minnesota Statutes, section 136A.1701, to establish both the margin and the index rate**.** This change is needed since the LIBOR index is anticipated to be eliminated within the next two years. For more on this change and an alternative method, see 4850.0014 on page 11.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.”

The office does not anticipate any costs for borrowers, cosigners, or postsecondary institutions to comply with the proposed changes.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.”

The consequences of not adopting the rules would negatively affect the ability of borrowers and cosigners to benefit from the proposed changes in terms of flexibility in making interest payment, the ability to obtain natural disaster forbearances, and the increased ability to rehabilitate a defaulted loan. The consequences of not adopting changes that could help prevent delinquency and default are negative repercussions for borrowers and cosigners in terms of lower credit scores making it more difficult to obtain future loans for automobile, home, or other purchases. Defaulted SELF Loans may also negatively affect the ability of an individual to obtain certain types of jobs or rent property. Higher SELF default rates increase the overall cost to operate the loan program, and those increased costs are offset by higher interest rates to borrowers.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.”

There are no differences to evaluate between the proposed rules and existing federal regulations. The SELF Loan program is specific to Minnesota and complies with applicable federal regulations.

“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.”

Neither federal regulations nor other Minnesota state laws—other than the statutory authority to adopt the rules—addresses the areas covered in the proposed rules, so there is no cumulative effect.

Performance-Based Rules

The office made every effort to develop rules that were clear and practical, resulting in an efficient and effective process for operating the SELF Loan program. It is anticipated that the proposed rules relating to flexible interest payments, the ability to offer natural disaster forbearances, and increased time to rehabilitate a defaulted loan will reduce the number of defaulted loans and increase repayment of loans that default. Lower default rates and increased loan recoveries benefit all borrowers by keeping interest rates reasonable and offering an affordable educational loan option to students.

Additional Notice Plan

The office must describe its efforts to provide additional notice to persons who may be affected by the proposed rule; the office provides this additional notice through its Additional Notice Plan.

The office plans to give additional notice through various ways:

- Post all rule-related documents on its rulemaking web page and its SELF Loan program web page.
- Give additional notice by sending the proposed rules, the Dual Notice, and the SONAR to:
    - postsecondary institutions participating in the SELF program;
    - representatives of the Student Advisory Council under Minnesota Statutes, section 136A.031, subdivision 3;

    - representatives of the Financial Aid Advisory Committee, which is comprised of Minnesota financial-aid administrators from various postsecondary institutions;
    - Firstmark Services, the loan servicer for the SELF program; and
    - U.S. Bank National Association and Bank of America, N.A., the banks that provide financing for the SELF program.
- Include a notice on Firstmark Services' website for borrowers and cosigners about the proposed rules and direct borrowers and cosigners to the office's SELF Loan program web page for information on the proposed rule and comment periods.
- Include notices on billing statements of up to 100,000 borrowers and cosigners about the proposed rules that direct borrowers and cosigners to the office's SELF Loan program web page for information on the proposed rule and comment periods.
- In addition to its Additional Notice Plan, the office will mail the proposed rules, the SONAR, and the Dual Notice to all persons who have registered on the office's rulemaking mailing list. The office will also notify the legislature, but will not notify the commissioner of agriculture because the rule does not affect farming operations.

Consultation with Minnesota Management and Budget on Local Government Impact

As required by Minnesota Statutes, section 14.131, the office must consult with Minnesota Management and Budget (MMB). To consult with MMB, the office sent MMB the SONAR and proposed rules to help it determine the impact and benefits of the proposed rule on units of local governments. The office will submit a copy of the cover correspondence and any response received from MMB to the Office of Administrative Hearings at the hearing or with the documents it submits for review.

Determination about Rules Requiring Local Implementation

As required by Minnesota Statutes, section 14.128, subdivision 1, the office considered whether the proposed rules will require a local government to adopt or amend any ordinance or other regulation to comply with these proposed rules. The office determined that the proposed rules do not impact local government; therefore, no action is required of local government.

Cost of Complying for Small Business or City

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the office considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or city. The office determined that the cost of complying with the proposed rules is not anticipated to exceed $25,000 for any small business or city. The office made this determination based on the probable costs of complying with the proposed rules, as described in the Regulatory Analysis. The proposed rules do not require or request businesses or cities to take any action, nor do the proposed rules place any regulatory burdens or expectations on cities or businesses.

Impact on Farming Operations

The proposed rule does not affect farming operations.

List of Witnesses

If the proposed rules go to a public hearing, the office anticipates having the following witness testify in support of the need for and reasonableness of the rules:

Marilyn Kosir, Student Loan Manager, Minnesota Office of Higher Education

Analysis of Need for and Reasonableness of Amendments

The proposed rules represent a major overhaul of the definitions by adding new definitions, expanding or clarifying definitions, using plain-language guidelines, and repealing definitions no longer used in the rules.

4850.0011 Definitions

Subpart 2: This definition is no longer used in the chapter, so it is needed and reasonable to remove this obsolete definition.

Subpart 2a: Adding this definition is needed to define a key term in the chapter. This new definition adds clarity and is a reasonable, common-sense definition that reflects how a borrower is someone who is a beneficiary of a loan, distinct from a cosigner.

Subpart 4: This change adds a variant of the defined term. This is a reasonable change that includes the variant as a defined term used in the chapter.

Subpart 6: This definition is no longer used in the chapter, so it is needed and reasonable to remove this obsolete definition.

Subparts 7a and 12a: This change moves the definition of commissioner to be in alphabetical order. This is a reasonable change that aligns with best practices for organizing definitions.

Subpart 7b: This new subpart puts the definition of cosigner in alphabetical order. It also references a new part, 4850.0026, in which the substantive requirements of a cosigner are listed and restyled to improve readability.

Subpart 9: The definition of "creditworthy" is modified to specify that no negative items are permitted if the individual—a cosigner—has a combined debt of $300 or less, that defaulted loans with the office must be satisfied in full, and that forbearance status on existing loans is not permitted unless an exception has been made for natural disaster forbearances.

These changes are needed to ensure that the cosigner has demonstrated satisfactory repayment ability with other creditors. The intent of the rule is to permit cosigners to qualify if they have a small item under $300 in dispute with a creditor as long as the rest of their obligations are satisfactorily paid. The existing language permits someone with less than $300 in total debt to qualify as a cosigner even if all the debt is charged off, reflecting an unsatisfactory payment history. Cosigners must fulfill their credit obligations to the office by satisfying previously defaulted loans and by paying on loans to the office unless in an approved natural disaster forbearance. The COVID-19 pandemic emphasized the need to provide new loans to students who are temporarily impacted by COVID -19 and have requested a natural disaster forbearance.

Subpart 10: This definition is moved to subpart 7b to be in alphabetical order, so the office needs to repeal the definition here.

Subpart 11a: The definition is modified to reflect procedural changes needed to improve efficiency and reflect current practice.

Subpart 14: Eligible school definition is modified to reflect a technical clarification to a statutory reference.

Subpart 15: Eligible student definition is modified to add a requirement that the student must not have loans with the office in forbearance unless an exception has been made for a natural disaster and adds language about requiring a cosigner when the loan is approved. These changes align with those proposed under subpart 9 and part 4850.0026 and are needed because they ensure that the student has a creditworthy cosigner when the loan is approved and the student is satisfactorily paying their obligations to the office unless an exception has been made for a natural disaster. The modified definition expands eligibility for the SELF Loan by opening it up to students completing prerequisites. This change is based on requests from students and postsecondary institutions to help fund students who need to complete courses

before being accepted for enrollment in a specific area of study. A few other changes are made to remove redundant statutory references and to improve clarity.

Subpart 16: This change is needed to make a grammatical change in the definition and to reflect that "enrolled" is used in the chapter.

Subpart 17: This definition is amended to better reflect the financial aid that the office considers under the SELF program, so this needed change reflects current office practice. It is reasonable for the office to reference the applicable Code of Federal Regulations definition because the office uses the definition when auditing schools for the SELF program. Additionally, schools are already familiar with the definition, and any updates to the federal definition would apply, so the office would not need to go through rulemaking every time the federal government amends the term.

Subpart 21: This definition is no longer used in the chapter, so it is needed and reasonable to remove this obsolete definition.

Subpart 22: This term is modified to reflect the term's current usage in the chapter, and the other changes are needed to align the definition logically and grammatically with the amended term.

Subpart 23: This small grammatical change is needed to conform to other changes made in the chapter on transition periods; this change allows more multiple in-school periods for a borrower, thereby providing greater opportunities for paying only interest when attending school.

Subpart 26: Maximum effort definition is modified to remove names of federal loan programs. Eliminating the listing of federal loan programs clarifies that the student doesn't need to apply for any student loans, not just the currently listed federal loans, before applying for the SELF Loan.

Subparts 26a and 26c: This change moves the definition of office to be in alphabetical order. This is a reasonable change that aligns with best practices for organizing definitions.

Subpart 26b: Natural disaster forbearance is added as a definition. The natural disaster forbearance was authorized by a temporary rules change permitted under the Governor's Emergency Powers in effect in March 2020. This forbearance has been a beneficial payment relief option for borrowers and cosigners during the COVID-19 pandemic and is a needed option should a natural disaster such as a pandemic occur again so the office can quickly provide payment assistance. It is reasonable to limit the definition to a government-declared natural disaster that affects the ability of the borrower or cosigner to safely work or to safely live at home, thus disrupting the borrower's or cosigner's daily life and ability to pay a loan.

Subpart 26d: This definition is needed to define a term currently used in the chapter, and the definition is reasonable because it cross-references to a definition used in statute.

Subpart 26e: This new definition clarifies that any reference to SELF Loan includes any of the various SELF Loan types other than SELF Refi. It is also needed to complement the office's change under part 4850.0014, subpart 3, which simplifies the language on the commissioner determining the interest rate on SELF Loans.

Subpart 26f: This new definition adds a type of loan that the office is authorized by Minnesota Statutes, section 136A.1704, to issue and is needed to give meaning when the definition is used elsewhere in the chapter regarding delinquency or default. Delinquency or default of the SELF Refi Loan makes the borrower or cosigner ineligible to borrow or cosign a new SELF Loan.

Subparts 28a, 28b, 28c, and 28d: These definitions are repealed to eliminate the need to separately define each phase of the SELF program by the type of interest rate. Interest rate language is covered under part 4850.0014, subpart 3.

Subparts 28e and 28f: The definitions are amended to clarify parts 4850.0020 and 4850.0021, which provide for loan forgiveness and the nonaccrual of interest during periods of disability. The definitions have been expanded to cover an unforeseeable condition at the time the loan was fully disbursed or an unanticipated rapid progression of a condition after the loan was fully disbursed. These are reasonable changes that provide greater benefits to borrowers and cosigners and help fulfill the program's purpose. The definitions are also restyled to improve their readability, and the substantive requirements requiring a doctor to certify a disability are moved to part 4850.0027.

Subpart 29: The definition of transition period is amended to clarify that there can be multiple transition periods since borrowers may go in and out of school multiple times and the transition period may not be immediately after the end of an in-school period. This is a needed and reasonable change since the office receives requests from borrowers to return to school status after the current three-year limitation and the rules do not permit any accommodations. This modification recognizes the changing student population with increasing numbers of people returning to school for career changes, advanced degrees, or degree completion, which frequently occur more than three years after they initially left school. This modification will permit borrowers who move in and out of school status to have greater opportunities for paying interest only when they are attending school or looking for employment. Some of the stricken language was moved to a new part, 4850.0025, as the language was substantive language that did not belong in a definition part.

Subpart 30: This definition is no longer used in the chapter, so it is needed and reasonable to remove this obsolete definition.

Supporters: The proposed changes in this part would support borrowers, cosigners, and schools: expanding the definition of disability, allowing for a natural disaster forbearance, and allowing students to move in and out of transition periods more easily benefit borrowers and cosigners. And schools support increased benefits to students.

Opponents and controversies: None anticipated.

4850.0012 School Agreements and Student Applications

Subpart 1: The institutional loan participation agreement section is amended to incorporate language previously included under the certification definition in part 4850.0011. Because this is the only part in rule that references certification, it is more appropriate to have the definition in this part. Some minor style-and-form changes were made, but school duties were not changed, except to include in rule functions that schools already perform as part of certification to verify the loan period and financial aid associated with the loan period. This addition seeks to better clarify that eligible schools are following current requirements for determining loan periods under the chapter.

Subpart 2: Language was incorporated into the termination definition to identify the statutory authority for the program. This is a reasonable change that clarifies the statutory authority and provides a specific reference for the reader.

Subpart 4: The reference under item H to the number of late payments in the last 12 months was removed since the rule also requires broader reporting of the number of payments past due under item G. This is a needed and reasonable change that removes a duplicate provision.

Changes are not anticipated to have specific supporters, opponents, or controversies.

4850.0014 Amount and Terms

Subpart 3: Language in this section is being modified to align with the repeal of subparts 28a, 28b, 28c, and 28d under part 4850.0011 that define separate phases of the program. This subpart is modified to eliminate the specific reference to LIBOR as the index rate and expand existing authority of the Commissioner under Minnesota Statutes, section 136A.1701, to establish both the margin and the index rate. This change is needed since the LIBOR index is anticipated to be eliminated within the next two years (*see* Exhibit 2, “Fed Pushes Banks to Drop Libor Benchmark”). The office intends to use an index recommended by the Alternative Reference Rates Committee (ARRC), a group of private-market participants convened by the Federal Reserve Board and the New York Fed to help ensure a successful transition from LIBOR to another reference rate. Because of the anticipated index change, the office’s proposed amendments are reasonable and remove the need for the office to make a rule change every time the index changes. Borrowers and cosigners will still know what the interest rate will be before applying for the loan and throughout the life of the loan, as this information is visibly stated on the office’s website, and the index and margin are described in the promissory note.

The promissory note already provides for the substitution of comparable indexes. Furthermore, under the enabling statute—specifically section 136A.1701, subdivision 6—the office has broad authority to establish a supplemental loan program, including authority to set interest rates, which involves using a margin and index to calculate the rate:

> “The office shall determine the rate of interest to be charged on loans. The rate of interest on student loans however computed, shall not be subject to any provision of

state law limiting the rate of interest to be charged for a loan of money."

Because the office is offering a product and not requiring borrowers and cosigners to purchase a loan, there is no need to include the details of the margin, index, and interest rate in rule. The office provides three disclosures throughout the application process with information on what the current interest rate is and how it can change. Current interest rates are available on the office's SELF Loan website and are included on the billing statements sent to borrowers and cosigners. Language in the promissory note and the disclosures limit the quarterly change in the interest rate to no more than three percent over any four consecutive calendar quarters.

The index used for the SELF program is intended to align with revenue bond expenses that fund the loans. The margin covers the administrative costs of the program, which include losses from defaults, death and disabilities, servicing costs, and loan program administrative expenses for the office. Having the ability to set and change margins allows the office to establish lower margins. If a fixed margin were to be set, it would need to be set at a higher number than it currently is to cover unforeseen circumstances over the life of the loan, which can be as long as 29 years. Most private loans add a fixed percentage based on a person's credit risk factor to the lender's index rate to determine the individual's interest rate. The SELF program charges everyone the same rate, so there is no risk factor increment.

The margin is reviewed quarterly looking at all the program expenses including defaults and other write-offs. The margin can change quarterly; however, the margin has historically been stable. For example, since 2006 when the LIBOR index started to be used, the margin has been relatively stable with changes 13 out of 59 quarters. The margin has ranged from 2% to 3.5%, with the last change in April 2018 reducing it to 2%, which is the lowest margin permitted by bond covenants.

Changes are not anticipated to have specific supporters, opponents, or controversies.

4850.0015 Loan Disbursements

Subparts 1 and 2: In subpart 1, the office clarifies current practice in how a school may receive loan proceeds.

In subpart 2, language was simplified and redundant information that is stated elsewhere in rule was deleted. The changes also combine three subparts (repealing subparts 3 and 4) regarding loan disbursements into one compact subpart without adding substantive changes. The fundamental procedures are essentially the same for disbursing before, during, and after the loan period, so there is no reason for the redundant language. Style-and-form changes also make the subpart more readable and clarify what happens or does not happen depending on when a student returns to school. The process for when loan proceeds are in check form is also better described.

A new subpart 5 is added to permit checks to be sent directly to borrowers if the eligible school is unable to disburse the check. This change is a result of situations during the COVID-19

pandemic when students were attending school online and campus personnel were not on campus, so neither party had easy access to receiving and cashing the check. This resulted in delays in providing students with critical funds for living expenses. Adding this language is needed and reasonable because it would permit direct disbursement in situations such as a pandemic when students and staff are not on campus to easily facilitate transfer of funds. It is not required for the funds to be sent directly to the student if the school is still owed money, in which case normal procedures—specified in the part—would need to continue to ensure that the school receives the funds owed them.

Supporters: Borrowers, cosigners, and schools**.**

Opponents and controversies: None anticipated.

4850.0016 Non-enrollment, Transfer, and Withdrawal

Subpart 1: This subpart changes who the school must send the loan proceeds to when a student does not enroll. Changing the recipient for loan proceeds from the commissioner to the office makes the subpart consistent with existing and new language on loan proceeds. The subpart is also amended to remove vague references to "payment date" and to better specify that the requirement applies to 30 days after scheduled enrollment.

Subpart 3: In this subpart, the office clarifies that refunds are to be calculated in accordance with refund calculations guidelines provided to schools within the SELF Loan Program Manual and removes specific references to calculations in rules, which can be subject to changes in federal financial aid refund policies and school refund policies. The office incorporates the manual by reference, a common way for agencies to comply with chapter 14 requirements and not to run afoul of provisions relating to unadopted rules. Without incorporating the manual by reference, it would be overly cumbersome to list all applicable requirements in rule and would require the office to amend this rule requirement every time the manual changes.

Changes are not anticipated to have specific supporters, opponents, or controversies.

4850.0017 Repayment Procedures

Changes are proposed in this section that would permit the office to bill a minimum amount of interest rather than the full interest amount. Interest could be paid at a later date when the loan enters principal repayment. Capitalization of interest would be permitted when the interest has been deferred or if there is a regular or natural disaster forbearance. Income-driven repayment plans would also be permitted. Language has been added to address natural disaster forbearances in terms of the commissioner being able to determine the length of the forbearance and waive the requirement for a written request for all borrowers.

In items A and B, the changes are needed to reduce a student's burden to pay all the interest on the student's loan while in school and make it easier for students to pay a lower amount of interest during the in-school or transition periods. These are reasonable changes to provide a

student with more flexibility to make payments while receiving their education and to alleviate their financial burden.

The change is needed in item C to reflect current billing practice of projecting interest at the current interest rate to the payment due date rather than billing only interest that has accrued on the date the bill is sent out.

Item D moves some language to item E and adds the option of income-driven repayments if the loan program offers it. Current language permits interest capitalization only if interest payments are delinquent 120 days or more. This doesn't permit capitalization of fewer days of delinquent interest even if it could prevent the loan from defaulting. Allowing income-driven repayments is another flexible option for borrowers and cosigners.

Item E specifies the situations when interest can be capitalized to help borrowers and cosigners when they are unable to pay the full amount of interest that is accrued. Referencing delinquent interest without specifying the number of days delinquent will help borrowers and cosigners avoid defaulting on their loan when interest capitalization could prevent it.

Item G makes needed and reasonable clarifying changes. The office also clarifies that a forbearance is renewable if the commissioner receives another written request. The commissioner must also set the length for any natural disaster forbearance, which is a reasonable requirement given that each natural disaster is unique and the office has no reasonable way to predicate a minimum or maximum length. And the definition already limits a natural disaster forbearance to a government-declared natural disaster.

Item H establishes that if there is a natural disaster or a pandemic, the commissioner may waive the requirement that a forbearance request be in writing for all borrowers. For example, during COVID-19, under the Governor's Emergency Powers in effect in March 2020, the office suspended the requirement for a written request and obtained approval from the office's funding sources and bond rating agency to also waive the written request requirement. A permanent change in rules allows for a quicker response in the case of future natural disasters or pandemics.

Supporters: Borrowers, cosigners, and schools.

Opponents and controversies: None anticipated.

4850.0018 Claims

Subparts 1 and 2:

The language is modified to clarify the claim process by adding plain language and to insert cross-references, thus reducing redundant language. These are needed and reasonable changes to clarify the claims process. Changes permit the office to verify the death of a borrower without receiving a formal death record. Additional explanation is provided under part 4850.0020, subpart 1.

Supporters: Families of deceased borrowers will benefit from this change.

Opponents and controversies: None anticipated.

4850.0020 Loan Forgiveness

Subparts 1 and 2: Language changes make the rule clear and succinct regarding the loan-forgiveness process. The existing rule language does not clearly state who has the responsibility for verifying the death. The modification in subpart 1 eliminates the need for formal documentation in the death of a borrower or cosigner if the office has another means of verifying the death. This is a reasonable change that reduces the burden on families if the borrower or cosigner dies. The burden of verifying the death is placed on the office, which can verify a death through media coverage, a published obituary, school verification, or credit bureau records that incorporate information on deaths. The proposed rule terminates the obligation of both the borrower and cosigner to repay the SELF Loan upon the borrower's death instead of when documentation is verified. Proposed language allows for reimbursement to the appropriate party for payments made after the borrower's death.

Language changes to subpart 1 clarify that the obligation of the cosigner to repay a loan is forgiven upon the death of a cosigner. This change incorporates into rule the office's practice not to pursue the estate of the cosigner for payment. The change in subpart 2 is a needed change to align with parts 4850.0011, subpart 28f, and 4850.0027, which requires a doctor of medicine or osteopathic medicine to certify the total and permanent disability. This is also a reasonable change that ensures the borrower truly has a total and permanent disability and that the loan forgiveness is justified.

Language changes to subpart 2 incorporate into rule the office's practice of approving total and permanent disability for the cosigner upon receipt of qualifying medical certification.

Supporters: Borrowers and cosigners with qualifying disabilities and families of deceased borrowers and cosigners will benefit from this change.

Opponents and controversies: None anticipated.

4850.0021 Non-accrual of Interest Period During A Temporary Total Disability

The proposed changes make the part clear and succinct on non-accrual of interest during a temporary total disability. As in part 4850.0020, subpart 2, the changes align with existing language requiring a doctor of medicine or osteopathic medicine to certify a temporary total disability. These are needed and reasonable conforming and clarifying changes.

Changes are not anticipated to have specific supporters, opponents, or controversies.

4850.0022 Active Military Duty; Interest Reduction Benefit

Language is changed to reflect the ability of the office to verify military status without receiving copies of active military orders, reducing the burden on borrowers. No military interest reductions have been offered outside of federally mandated reductions, so there is no need for quarterly review. These are needed and reasonable changes to update the part to reflect the availability of the Servicemembers Civil Relief Act website that allows the office access to verify military service.

Supporters: Borrowers and cosigners serving in the military will benefit from this change.

Opponents and controversies: None anticipated.

4850.0024 Defaulted Loan Rehabilitation

Subpart 1: It is needed to repeal this subpart since loans must be rehabilitated within either two or three years of default, and the 2008 requirement no longer applies.

Subpart 2: Eliminates the restriction for rehabilitating a loan that has been turned over to collection. This is a needed and reasonable change that provides an opportunity for the borrower or cosigner to rehabilitate a defaulted loan when a collection entity is involved.

Subparts 3 and 5: The period for rehabilitation is extended to 36 months from the default date. Existing language has a deadline to complete rehabilitation within two years. This proposed rule change is needed to offer more flexibility to borrowers and cosigners to complete a rehabilitation during an extended time frame. During COVID-19, under the Governor's Emergency Powers in effect in March 2020, the office extended the period for rehabilitation. Several borrowers and cosigners took advantage of this favorable extension, and the office would like to see that extension as a permanent rule change.

The proposed rule change clarifies that both the borrower and cosigner have two separate opportunities to rehabilitate the loan.

Subpart 6: Language permits an extension of the repayment period if there is an agreed extension between the office and the borrower and cosigner. This is a reasonable change that gives the borrower and cosigner more flexibility.

Supporters: Borrowers and cosigners who request a rehabilitation will benefit from the proposed rule change.

Opponents and controversies: None anticipated.

4850.0025 Transition Period

This new part is needed to take substantive requirements out of the defined term—transition period—and to more accurately reference how a borrower is billed. The new part also clarifies

that a transition period is up to 36 months. Changes offer more flexibility for borrowers by offering multiple transition periods and conform to other time-related changes in the chapter.

Supporters: Borrowers who would like to return to school and in-school status more than 36 months after leaving school will benefit from the proposed rule change.

Opponents and controversies: None anticipated.

4850.0026 Cosigner

This new part moves the substantive requirements out of the existing definition part and better structures the requirements with subparts. Two substantive changes are made to the existing language.

First, the office is requiring a creditworthy cosigner when the loan is approved for disbursement by the office. This clarification of eligibility criterion applies only when the loan is approved. If the cosigner defaults on a loan obligation with the office, it impacts the office's ability to consider the cosigner creditworthy on future loans.

Second, the examples of "sibling" are removed. Examples are not rules, and the dictionary definition of sibling—along with adding stepsibling—are sufficient to express the office's intent. Furthermore, by removing gender-specific terms, the simplified term allows for nonbinary or non-gender-conforming siblings to be included.

Changes are not anticipated to have specific supporters, opponents, or controversies.

4850.0027 Certifying Disability

As with parts 4850.0025 and 4850.0026, the office is creating a new part to improve readability and to remove substantive requirements from definitions. In this part, the office clearly identifies the certification requirements for when a doctor certifies a disability, requiring that the doctor specify the illness or injury associated with the disability, the date that the borrower became unable to work, and how long the borrower is expected to be unable to work. These new minimal requirements align with the certification form doctors must complete for the office to effectively evaluate disability requests.

Changes are not anticipated to have specific supporters, opponents, or controversies.

Term Change

This change gives the revisor's office the editorial power to capitalize "loan" in the term "SELF Loan" and precludes the necessity for the office to amend every subpart that contains the term. This is a needed and reasonable efficient change that complies with the revisor's statutory authority.

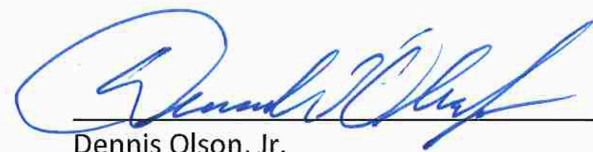
SONAR Exhibits

1) Verlaine, J. A. (2021, May 13). Libor Replacement Race Heats Up. Wall Street Journal.
2) Verlaine, J. A. (2021, March 26). Push to Replace Libor Intensifies. Wall Street Journal.
3) SELF Loan Promissory Note Terms

Conclusion

In this SONAR, the agency has established the need for and the reasonableness of each of the proposed amendments. The agency has provided the necessary notifications and documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.



Dennis Olson, Jr.
Commissioner
Minnesota Office of Higher Education

7/21/2021

Date

Appendices

https://www.wsj.com/articles/push-to-replace-libor-intensifies-11616783189

FINANCIAL REGULATION

Push to Replace Libor Intensifies

World's largest banks and regulators are set to abandon the benchmark by year-end, but lenders have been slow to switch

The Federal Reserve has warned that it would probe banks if they didn't stop using Libor on new transactions by the end of the year.

PHOTO: AL DRAGO/BLOOMBERG NEWS

By *Julia-Ambra Verlaine*

Updated March 26, 2021 4:28 pm ET

Top Federal Reserve officials and regulators are dialing up pressure on banks to stop tying loans to the London interbank offered rate.

After falling into disrepute a decade ago in the wake of a manipulation scandal, the world's largest banks and regulators world-wide are scheduled to abandon the short-term borrowing benchmark by year-end. But lenders have been slow to switch.

Earlier this week, Federal Reserve vice chairman of supervision Randal Quarles repeated earlier warnings the central bank would probe banks if they didn't stop using Libor on new transactions by the end of 2021. Chief financial officers at major U.S. corporations are still choosing between alternatives and few banks have begun to offer business loans linked to a new rate.

Loans tied to Libor have grown over the past year instead of dwindling. Around $223 trillion worth of contracts now reference Libor-which helps set borrowing costs on everything from business loans to mortgages-compared with $199 trillion at the end of 2016, according to the latest report from the Alternative Reference Rates Committee, a financial industry group made up of major banks, insurers and asset managers alongside the New York Fed.

The increase is one sign lenders have yet to fully embrace the Fed's preferred replacement: the secured overnight financing rate, or SOFR. In another, roughly two-thirds of U.S. corporations surveyed by the ARRC that borrow money from large banks said they weren't being offered alternatives to Libor.

While Libor is derived from estimates of what it costs banks to borrow from one another over different short-term periods, SOFR is based on the cost of transactions in the marketfor overnight repurchase agreements, or repos. That is where hedge funds, banks and other financial companies borrow cash overnight using U.S. government debt as collateral.

But most corporations borrow or lend in three-month or six-month periods. Creating a longer-term SOFR rate, also known as term SOFR, requires a robust market in derivatives.Without a large secondary market for futures and swaps, the new benchmark would be prone to the same manipulation that tarnished Libor.

While banks and exchanges expanded SOFR derivatives since the CME Group launched futures and swaps markets in 2018, trading in short-term instruments has been close to flat over the past year. As a result, the ARRC said it would be unable to recommend longer-term SOFR rates, something lenders said they wanted before switching.

Analysts said the clear signals from regulators and the ARRC that longer-term SOFR rates wouldn't be available in the near-future should eventually force undecided companies and banks to act.

"Some market participants might have been waiting for term SOFR to create new products or even become operationally ready to move away from Libor," said Gennadiy Goldberg, U.S. rates strategist at TD Securities.

Elsewhere in debt markets, the yield on the benchmark 10-year Treasury note closed at1.658% Friday, up from 1.614% Thursday.

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Appeared in the March 27, 2021, print edition as 'Fed Pushes Banks to Drop Libor Benchmark.

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https://www.wsj.com/articles/libor-replacement-race-heats-up-11620898202

CREDIT MARKETS

Libor Replacement Race Heats Up

Some analysts say multiple rate benchmarks are likely to emerge instead of just one

Bank of America and JPMorgan Chase traded the first complex derivative using a Bloomberg index crafted to replace Libor.

PHOTO:JEENAH MOON/BLOOMBERG NEWS

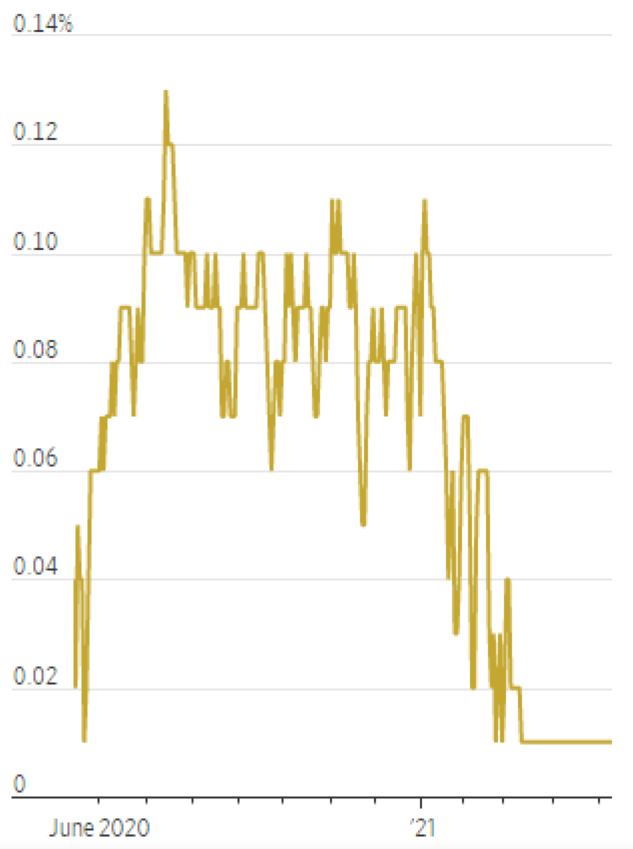
By Julia-Ambra Verlaine
May 13, 2021 5:30 am ET

New contenders are emerging in the race to get rid of the London interbank offered rate by year-end.

Bank of America Corp. and JPMorgan Chase & Co. traded the first complex derivative using a Bloomberg index crafted to replace Libor, exchanging $250 million worth of an interest-rate swap earlier this month. The Bloomberg Short Term Bank Yield Index competes with the alternative preferred by regulators including the Federal Reserve Bank of New York.

The transaction between the two large Wall Street firms marks a shift in the years long plan to move away from the troubled rate underpinning trillions of dollars in financial contracts, with some analysts now saying multiple benchmarks are likely to replace Libor instead of just one. Libor underpins trillions of dollars worth of financial contracts and is scheduled for replacement at the end of 2021 in the wake of a manipulation scandal.

United States Secured Overnight Financing Rate(SOFR)



Source: FactSet

The Alternative Reference Rates Committee, consisting of major banks, insurers and assetmanagers working alongside the New York Fed, have been rallying investors and companies to move to the Secured Overnight Financing Rate, or SOFR. While large banks and mortgage lenders like Fannie Mae have started actively using the benchmark some large U.S. corporations and other borrowers held off, seeking a benchmark that could fix rates over longer time spans.

Bankers said clients are using the Bloomberg index because the ARCC has been slow to roll out those forward-looking reference rates. The committee initially planned to recommend such a rate by the beginning of 2021. After it held off, citing a lack of sufficient transactions and data, some treasurers and traders took matters into their own hands.

Thomas Pluta, global head of linear rates trading at JPMorgan, said the delay breathed life into competing rates, and his trading desk has seen high demand for the Bloomberg rate from clients.

"The Bloomberg Short Term Bank Yield Index is very similar to Libor, so people comprehend what it is," said Mr. Pluta. "It has emerged as the most likely front-runner among the credit-sensitive rates being developed."

Mr. Pluta said he expects SOFR will emerge as the primary rate used in financial markets, but that some borrowers will choose alternatives more suited to their needs. Some regional banks are already using Ameribor, a rate created by futures guru Richard Sandor, because it changes with their funding costs. Set on the American Financial Exchange, the rate reflects what banks pay to lend to each other through mutual lines of credit.

SOFR is an overnight rate dubbed nearly risk-free, which means it doesn't reflect increased costs of funding during a crisis. Sonali Theisen, head of fixed-income e-trading and market structure at Bank of America, said that makes switching complex for borrowers who need a rate sensitive to market conditions, such as corporate treasurers, who like to fix payments in advance.

"Providing the market more than one option, particularly to support loan transition, seems prudent," said Ms. Theisen. "We are looking to provide our clients choice."

The ARRC is making an effort to speed up its support for forward-looking rates, also known as term rates, in the financial industry. It recently published a list of standards to back longer dated SOFR rates in a bid to increase its adoption. Tom Wipf, a Morgan Stanley banker who also leads ARRC, said the committee was taking its time to make sure the rates would be based on sufficient transactions.

"Recent developments underscore there is very strong demand for a term rate," said Mr.Wipf. "It's clear that this last piece of puzzle is important to the market.

Write to Julia-Ambra Verlaine at Julia.Verlaine@wsj.com

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SELF Loan Promissory Note Terms:

1. **Parties:** For purposes of this promissory Note "I", "me" , "we" or "my" refers to the Borrower and Cosigner; "you" or "your" refers to the Minnesota Office of Higher Education and/or its servicer, agent, or assign. The "Borrower" is the student whose education the loan is used to finance. The "Cosigner" is another person, other than the Borrower, who agrees to be bound by all of the terms and conditions of this Note. When this loan is made, both the Borrower and the Cosigner will be liable, individually and together, for the full amount of the loan, plus interest and any other applicable charges.
2. **General Definitions:** Capitalized terms not otherwise defined when first used herein have the meanings set forth herein:
   a. Capitalization: the addition of accrued and unpaid interest to the outstanding Principal balance of the loan made under this Note. After you Capitalize interest, interest will accrue on the new Principal balance, including the Capitalized interest.
   b. Final Disclosure: a Truth-In-Lending-Act document that you will provide to me as required by federal law prior to my first loan disbursement.
   c. Note: this Application and Promissory Note for a private education loan and these SELF Loan Promissory Note Terms.
   d. Principal: the amount disbursed to me or on my behalf as disclosed on the Final Disclosure plus the amount of any interest that is Capitalized at any time during the life of the loan.
   e. School: an institution of higher education I identify on this Note, which you approve, and the Borrower attends or will attend.
3. **How I Agree to the Terms of this Loan:** With respect to each disbursement of the loan proceeds, I agree to all the terms in this Note and the Final Disclosure when I consummate the loan by either: 1) signing this Note, or 2) using the proceeds or allowing someone to use the proceeds on my behalf. I am not bound to the repayment terms in this Note until the loan proceeds are disbursed.
4. **Disbursement of Loan Proceeds:** You will either electronically transmit funds to the School on my behalf or issue the School a master check or a check made jointly payable to me and my School. I authorize my School to pay to you any refund that may be due to me, up to the amount of this loan. If I am delinquent in payment on any SELF Loan, my pending disbursements may be withheld until payment is current or my disbursements may be permanently cancelled.
5. **Promise to Pay**: We promise to pay you the Principal loan amount (including Capitalized interest), interest that accrues on the Principal, and all other amounts that may become due under this Note. We also promise to pay all reasonable costs of collection, as permitted by law, including attorney's fees, legal costs, and the costs of outside collection entities. We promise to make each payment on or before the date that it is due. We promise to make the payments on time even if you do not send either of us a statement. On the date that the last installment of Principal becomes due under the terms of this Note, we promise to pay any other accrued and unpaid amounts in addition to the scheduled installment of Principal. Our responsibility to repay amounts due under this Note is not affected by the liability of any other person to either of us. We agree to uphold our obligations in this Note, even if the Borrower does not complete the education program. If I am a Cosigner, my obligation to repay the loan is the same as the Borrower's.
6. **Interest:** Once I have selected the Fixed Rate or Variable Rate the designation cannot be changed during the life of the loan. If I selected Fixed Rate, I will pay you interest on the unpaid Principal balance of the loan at an annual rate equal to the fixed rate stated in my Final Disclosure, which I agreed to when I accepted the loan. If I selected Variable Rate, I will pay you interest on the unpaid Principal balance of the loan at an annual rate equal to the Margin plus the Index Rate.
   a. *Interest Calculated Daily:* You will calculate interest on a daily basis on the outstanding Principal balance until the loan balance is paid in full. As you calculate interest daily, the amount of interest I pay varies based on the number of days between my last payment and my current payment.
   b. *Index Rate Calculation:* The Index Rate in any calendar quarter is the arithmetic average rounded to the nearest tenth of one percent of the three-month London Interbank Offered Rates (LIBOR) rate during the calendar quarter immediately preceding the interest rate adjustment date. The Index Rate may change on January 1, April 1, July 1 and October 1 of each year. You may from time to time, in your sole discretion, change the Index Rate to a substantially similar Index Rate.
   c. *Margin:* The Margin is an annual percentage rate fixed by you. You may increase or decrease the Margin. The Margin may change on January 1, April 1, July 1 and October 1 of each year.
   d. *Effect of Increase or Decrease in Index Rate or Margin:* If the Index Rate or the Margin increases or decreases, the interest rate on the loan may increase or decrease. Any change in the interest rate will take place automatically on the same day as the change in the Index Rate or the Margin without notice to me. The interest rate on the loan will not increase or decrease more than three percentage points over any four consecutive calendar quarters.
   e. *Information:* I may find out what the Margin or Index Rate is by contacting you or checking the SELF Loan website.
7. **Repayment**:
   a. Phase V SELF Loans will enter the Repayment Period no later than nine years after the first disbursement date on the loan, regardless of any In-School Period or Transition Period that would otherwise apply.
   b. *In-School Period:* Unless the loan has entered a mandatory Repayment Period as provided in 7.a. above, the period during which the Borrower is an In-School Student, as defined in 7.e. below, is the "In-School Period." During the In-School Period, I will pay interest accrued on the loan. I will make payments every three months. The first payment will be due approximately three months after the date of the first disbursement. When the Borrower stops being an In-School Student, I will also pay interest accrued since the last quarterly interest payment. If the Principal balance on the SELF Loan is less than $50, I will be billed for the entire balance.
   c. *Transition Period:* Unless the loan has entered a mandatory Repayment Period as provided in 7.a. above, the Transition Period for this Note begins the month after the Borrower stops being an In-School Student. It continues for up to 12 months, unless the Borrower signs an Extended Interest Form to continue it for up to an additional 24 months (making a maximum Transition Period of 36 months). During the Transition Period, I will pay accrued interest on the loan each month. If the Principal balance is less than $50, I will be billed for the entire balance.
   d. *Repayment Period:* The Repayment Period begins the earlier of nine years after the first disbursement date on the loan or at the end of the Transition Period. During the Repayment Period, I will pay monthly installments of Principal and interest on the loan