Canadian Bond Investors' Association
Association canadienne des investisseurs obligataires

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July 11, 2014

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Dear Mr. Rudin and Mr. Bulnes,

Re: Request for Comments on OSFI Guideline E-20 – Canadian Dealer Offered Rate Benchmark-Setting Submissions and IIROC Proposed Enhancements to CDOR Oversight

The purpose of this letter is to provide the Office of the Superintendent of Financial Institutions Canada (OSFI) with the CBIA's feedback on the Draft Guideline E-20 on the CDOR Benchmark-Setting Submissions released May 2014 as well as the to provide the Investment Industry Regulatory Association of Canada (IIROC) with the CBIA's feedback on the Canadian Dollar Offered Rate Code of Conduct (the "Code of Conduct") released June 2, 2014.

The CBIA was established in 2011 and represents 33 of the largest fixed income institutional investor organizations in Canada, including those from the insurance (buy-side), asset manager (including bank-owned) (buy-side), pension and investment counsel sectors. Those institutions represent more than $560 billion of fixed income assets under management. As such, the CBIA is the independent voice of Canadian bond investors, and hence of the millions of pensioners, policyholders and retail investors who depend on CBIA members and other similar industry participants for the sound management of these investments.

With regard to the OSFI Draft Guideline "CDOR Benchmark-Setting Submissions" of May 2014, we support the OSFI initiative and goals to develop a new guideline for CDOR submitting banks and applaud the idea of applying equal expectations to all participants. With respect to particular aspects of the Draft Guideline, within Section III – Internal Controls, it is suggested that "material breaches" in banks' submission processes and procedures be escalated to the Senior Management and the Board. While we agree with this initiative, for OSFI to fulfill its objective of true supervision of CDOR, OSFI also ought to be apprised of any "material breaches" in a timely and ongoing basis. The supervisory role of OSFI would further be strengthened if the other items in Section III including the banks' annual reviews of the CDOR submission process, conflict of interest policies and communications protocols were also required to be communicated to OSFI on a timely (i.e. when items are communicated to internal stakeholders) and ongoing basis.

Further, with regard to Section V – Supervisory Assessments, for truly effective supervision, the CDOR submission process reports ought to be submitted to OSFI as part of regular disclosure rather than on an occasional basis and only when specifically requested by OSFI.

With regard to the IIROC Code of Conduct, while we support the general premise, we believe it is seriously flawed with respect to the Voluntary Participation (paragraph 15) clause, and the ability of a Submitting Bank to withdraw their participation in the CDOR panel. As you are aware, there are billions of dollars-worth of floating rate note bonds in circulation in the Canadian market in addition to a much more sizable derivatives market that uses CDOR as a benchmark. In our view, any bank that does business in Canada and uses Banker's Acceptances/CDOR as either a benchmark or lending rate for loans, notes or derivatives, should be required by regulators to be a Submitting Bank. This would include not just the seven banks that have agreed to be part of the CDOR panel and the Code of Conduct, but any bank doing business in Canada using CDOR as a benchmark. To properly reflect the differences in institution size and market activity, each submission would be re-weighted as appropriate. To allow voluntary participation in a panel for such an important benchmark is to not regulate the benchmark at all. We do not believe the IIROC approach is in the spirit of the IIOSCO Principles, or is an adequate approach to regulatory oversight.

With respect to the Submission Methodology laid out in paragraph 4 of the Code of Conduct, we have the following comments. Through informal discussions we have had with traders who deal in CDOR, we understand that there is a very liquid market in both 1-month and 3-month CDOR, and that typically most large banks lend based on the Banker's Acceptance/CDOR rate on a daily basis. Because of the liquidity in 1-month and 3-month CDOR we do not believe it should be necessary for the Submitting Banks to make adjustments to their Bid based on Expert Judgment as discussed under paragraph 4.1 of the Code of Conduct. If a bank does not make a loan on any particular day using the 1-month or 3-month benchmark and are making a submission based on Expert Judgment, then that Bid should be given a lower weighting than for other Submitting Banks. In addition, we understand that both 6-month and 12-month CDOR are not used very often. In fact, we are not aware of any floating rate notes denominated in Canadian dollars that use 6 or 12 month CDOR as a benchmark. Therefore the need for Expert Judgment appears to be greater for these two benchmarks. Where Expert Judgment is used, we believe a greater degree of scrutiny by regulators may be warranted. In addition, given its vague definition and potential power, a more clear definition of "Expert Judgment" would be prudent.

Our final comment is on paragraph 8.2 of the Code of Conduct. Our understanding is that all of the actions listed in this paragraph are currently illegal. We find it curious that it needs to be highlighted that these actions are also "strictly prohibited."

We appreciate the opportunity to participate in this consultation and would be pleased to meet with OSFI and IIROC to address any questions you may have.

Sincerely,

Joe Morin
Chair

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