# INDEPENDENT COMMUNITY BANKERS of AMERICA®



July 22, 2014

Charles A. Vice
President, Chief Operating Officer
Intercontinental Exchange Inc
Suite 500, 2100 RiverEdge Parkway
Atlanta, GA 30328

Dear Mr. Vice:

I am writing on behalf of the Independent Community Bankers of America, a trade association representing our nation's 6,500 community banks, regarding a new LIBOR licensing fee implemented by ICE on July 1, 2014. This policy would require financial institutions to enter into license agreements and pay an annual fee of $16,000 for any usage of the LIBOR index reference rates for loans and other financial transactions. We believe this new policy will be very problematic for thousands of community banks and we strongly urge ICE to revise this policy.

ICE's new policy states[1]: "A Usage License is required by any party that uses LIBOR rate information in valuation and pricing activities, including . . . interest rate fixings . . . and/or use of the LIBOR rate information as a reference rate in transactions and financial products including (but not limited to): swaps, FRAs, mortgages and loans."

Community banks are smaller financial institutions whose loan volumes would be minimal compared to the loan volumes of the world's largest banks. Community banks would therefore pay a proportionally higher cost relative to the loans they index to LIBOR than would the largest financial institutions. Additionally, many community banks may not use LIBOR but may share a few loan participations with other financial institutions, yet would apparently be required to pay the full $16,000 fee even for such incidental usage of loans they didn't originate or create.

ICE also states[2] that "ICE LIBOR is designed to reflect the short term funding costs of major banks active in London." Yet, the impact of ICE's new fees upon community banks and other small financial institutions would be disproportionately borne by the smallest institutions, not the "major banks." We believe this is quite unfair.

While we recognize that ICE is charging these fees to cover their investment in systems and increased monitoring and surveillance to ensure that LIBOR remains a reliable reference rate, these fees apparently will be assessed upon thousands of small institutions that had no role in the BBA LIBOR manipulation scandal and whose volume of LIBOR related transactions will be quite minimal compared to the world's largest financial entities.

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[1] ICE BENCHMARK ADMINISTRATION - LICENSING AND DISTRIBUTION FAQ
[2] LIBOR: Frequently Asked Questions; https://www.theice.com/publicdocs/IBA_LIBOR_FAQ.pdf


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LIBOR is used for a variety of floating and adjustable rate loans from mortgages to student loans and hedging purposes. This new fee policy will hinder offering loans to many categories of borrowers or require the use other indexes. Under this policy, every bank using commercial, consumer or mortgage loan docs referring LIBOR—including the smallest community banks—would be subject to this new fee, even if they use LIBOR minimally. This policy would have a detrimental retroactive impact forcing many small banks to consider the difficult task of amending existing loan agreements.

This policy raises a number of questions including:

- Why is there no differentiation in the application of fees for heavy users versus those who may reference LIBOR sporadically or infrequently?
- Why is there no demarcation between the sizes of institutions using the LIBOR index since large financial institutions are much more able to pay such a fee?
- Do these new fees apply to new loans and financial products or do they apply retroactively?
- If retroactive, why would the new fees be applied retroactively since many loans and investments were entered into contractually without any way of knowing these loan and investment contracts would be the basis of future fees?
- Do banks that did not originate but only participated in a loan or financial transaction originated by another financial institution also need to pay this license fee?
- If all a community bank is doing is obtaining the ICE LIBOR index from the Wall Street Journal, why should the bank be forced to pay a license fee for this public information?
- What steps has ICE undertaken to communicate this new policy to community banks?

These new fees come as a shock to many. ICE could easily address these concerns with simple policy changes: 1) with regard to existing loans and other financial transactions, allow community banking institutions with under $50 billion in asset size to also be exempt from the LIBOR fees or license requirements if the LIBOR rates they utilize are delayed 24 hours and thus are already broadly disseminated; 2) do not apply these exorbitant fees for incidental use of the LIBOR index; and 3) do not require usage fees and licenses for financial institutions that participate in loans or financial transactions they did not originate. Adopting these three recommendations would go a long way towards addressing the many concerns that will be raised over the new fee and licensing policies.

We would be pleased to arrange a conference call to discuss these matters with appropriate ICE personnel. Please feel free to contact Mark Scanlan or Chris Cole at 202-659-8111 or at mark.scanlan@icba.org; chris.cole@icba.org to discuss these issues further or to provide us a list of ICE personnel that we should contact. I appreciate your immediate consideration of this request.

Sincerely,

Camden R. Fine
President & CEO

CC: Scott A. Hill, Chief Financial Officer and Johnathan H. Short, General Counsel