LIBOR® CHANGES AND CESSATION PROCEDURE

1. Introduction

ICE Benchmark Administration Limited (IBA) is the Benchmark Administrator for LIBOR.

This Changes and Cessation Procedure is published by IBA in compliance with Article 28 of the UK Benchmarks Regulation (BMR), as modified in accordance with the United Kingdom Financial Conduct Authority’s (FCA) BMR Annex 4 modifications in relation to “synthetic” LIBOR, which requires a benchmark administrator to publish, together with the Benchmark Statement required under Article 27 of the BMR, a robust procedure concerning the actions to be taken by the administrator in the event of changes to or the cessation of a benchmark which may be used in the UK.

This Changes and Cessation Procedure is specific to LIBOR and covers “synthetic” LIBOR (with respect to GBP and JPY) and “panel bank” USD LIBOR.

Paragraphs 4 to 10 set out the steps that IBA would take in the event of a change to or cessation of LIBOR. Note, in respect of the cessation of all LIBOR settings, IBA has complied with the requirements of its Changes and Cessation Procedure (set out below) and its Consultation Policy.

Equivalent procedures are available for all benchmarks administered by IBA.

2. BMR requirements

Article 28(1) of the BMR requires a “robust procedure concerning the actions to be taken by the administrator in the event of changes to or the cessation of a benchmark which may be used in the United Kingdom in accordance with Article 29(1)“.

Article 29(1) states that:

“A supervised entity may use a benchmark or a combination of benchmarks in the United Kingdom if the benchmark (a) is on the FCA register or (b) is provided by an administrator who is on the FCA register and located in the United Kingdom.”

Article 29(1A) states that paragraph 1 of Article 29 (noted above) does not enable a supervised entity to use a benchmark in the United Kingdom in breach of a prohibition under Article 21A or 23B.

3. Changes to LIBOR

If IBA proposes to make changes to “panel bank” USD LIBOR, IBA’s Consultation Policy is followed.

In relation to “synthetic” 1-, 3-, and 6- Month GBP and JPY LIBOR settings, the FCA has the power to require IBA to make certain changes. IBA expects to notify the market of such changes as soon as reasonably practicable after IBA has itself been notified.
4. Cessation

Note, in respect of the cessation of all LIBOR settings, IBA has complied with the requirements of its Changes and Cessation Procedure (set out below) and its Consultation Policy.

Further to the March 2021 announcement from the FCA, after December 31, 2021, all CHF and EUR LIBOR settings, the 1 Week and 2 Months USD LIBOR settings, and the Overnight/Spot Next, 1 Week, 2 Months and 12 Months GBP and JPY LIBOR settings have ceased to be published.

Note that the FCA has exercised its powers under Articles 21(3), 23A and 23D of the BMR to compel IBA to continue the publication of the 1-, 3- and 6- Months Sterling and Japanese Yen LIBOR settings under a changed, “synthetic” methodology, for the duration of 2022. The “synthetic” methodology is not based on panel bank contributions and is not representative of the underlying market or economic reality the setting is intended to measure, including for the purposes of the BMR. Please see the section below entitled “Cessation of compelled publication”.

The FCA has confirmed that it expects the Overnight and the 1-, 3-, 6- and 12-Months USD LIBOR settings will continue to be published on a representative basis, using panel bank contributions under the “panel bank” LIBOR methodology, until end-June 2023.

The FCA has announced that the Overnight and 12-Months USD LIBOR settings will cease immediately after June 30, 2023 and advised that it will continue to consider the case for using its new and enhanced legal powers to compel IBA to continue the publication of the 1-, 3- and 6-Months USD LIBOR settings beyond June 30, 2023 under a changed, “synthetic”, unrepresentative methodology.

Please see the see the document entitled “Further information on LIBOR” for background and IBA’s LIBOR webpage for further details.

Please ensure you take legal and financial advice in all relevant jurisdictions to ensure you understand and are prepared for the impact of the cessation or unrepresentativeness of any LIBOR settings on you and your counterparties and to ensure you understand the implications of the FCA’s new powers and their exercise of those powers under the BMR.

5. Approach to cessation

IBA’s approach to handling cessations of some or all LIBOR settings varies according to whether:

- IBA decided not to seek to publish some or all LIBOR settings after a specified date; or
- IBA is not able to continue to produce the benchmark in a reliable fashion that represents the economic reality that the benchmark is intended to measure. In accordance with Article 11(1)(a) of the BMR, the provision of a benchmark is governed by the requirement that the input data be sufficient to represent accurately and reliably the market or economic reality that the benchmark is intended to measure. 

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1 Article 11(1)(a) BMR no longer applies to the “synthetic” LIBOR rates, by virtue of its disapplication to Article 23A benchmarks pursuant to Annex 4 of the BMR. Please see the section below entitled “Cessation of compelled publication”.
6. **Voluntary discontinuation**

IBA would inform the FCA as soon as a decision to cease publishing some or all LIBOR settings was being considered. IBA would then engage actively with the FCA and the relevant central bank(s) throughout the process.

IBA would announce the intended discontinuation as soon as possible and would give market participants at least one year’s notice of an intention voluntarily to cease publishing any LIBOR settings.

If other benchmark administrator(s) expressed an interest in publishing LIBOR settings that IBA was no longer seeking to publish, IBA would be prepared in principle to work with such administrators to help to facilitate the transition for market participants. Such facilitation might include any or all of the following: help with setting project and transition timelines; participation of IBA staff in meetings with contributors or users to explain the handover; and/or sharing relevant regulatory policies or procedures produced by IBA. IBA would also communicate directly with LIBOR licence holders to ensure they are aware of the change in administrator.

7. **Inability to produce representative settings**

As stated above, LIBOR settings need to be compliant with relevant regulations and in particular those relating to representativeness\(^2\).

As set out in Article 11(4) of the BMR:

“Where an administrator considers that the input data does not represent the market or economic reality that a benchmark is intended to measure, that administrator shall, within a reasonable time period, either change the input data, the contributors or the methodology in order to ensure that the input data does represent such market or economic reality, or else cease to provide that benchmark.”\(^3\)

The FCA would be informed immediately if IBA suspected that certain or all LIBOR settings would become unrepresentative owing to, for example, reduced input data on a continuing basis or a fundamental change in the underlying interest that the benchmark seeks to measure, or any other circumstance where IBA could not continue to publish LIBOR.

IBA would share with the FCA the results of any representativeness testing. Once any such testing had been verified, IBA would share the information as appropriate with other relevant regulatory bodies, central banks and/or the LIBOR Oversight Committee to seek to ascertain whether the situation would be likely to be of a short term nature or more irreversible.

Regarding reduced input data, IBA has policies and procedures that are designed to address periods when input data is reduced for short periods. IBA’s [Reduced Submissions Policy for USD LIBOR](#) is published on the website.

If the situation is likely to be of a longer term nature, IBA would follow the steps outlined below.

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\(^2\) Amendments to the BMR under the Financial Services Act 2021 have altered the application of Article 11(1) to benchmarks designated as “Article 23A benchmarks”, which is the case for the 1-, 3- and 6- Months Sterling and Japanese Yen LIBOR settings.

\(^3\) Amendments to the BMR under the Financial Services Act 2021 have altered the application of this provision to a benchmark that the administrator is required by the FCA to continue to publish and the scope of this provision has been further modified in relation to Synthetic LIBOR by modifications made by the FCA pursuant to Annex 4 of the BMR.
8. **Cessation steps**

Details of any proposed cessation of LIBOR would be reviewed and agreed with the LIBOR Oversight Committee which would have an important role in monitoring the execution of the plan.

Key factors to be considered are:

- The timing of the cessation, including how much notice should be given;
- Whether any transitional or mitigating measures could or should be implemented; and
- Stakeholder engagement.

9. **Timings and notice**

The timing would take into consideration the relevant factors in the prevailing circumstances:

- The urgency, if any, of ceasing the benchmark;
- The amount of notice that should be given to stakeholders to allow them to take a number of actions: to identify alternative arrangements; to put such alternatives in place; to ensure that contractual documentation is amended as necessary;
- The timing of any transitional or mitigating measures;
- The extent of any likely IT or process issues;
- Whether there are any important dates or milestones in the near future (for example, expiries of financial instruments referencing the benchmark); and
- Whether there are any regulatory, legal or other provisions that might affect the timing.

10. **Engaging with external stakeholders**

If cessation of some or all of the LIBOR settings were under consideration, IBA’s [Consultation Policy](#) would apply.

As stated above, the LIBOR Oversight Committee would have an important role in agreeing the cessation plan and monitoring IBA’s execution of the plan.

IBA would also engage with other relevant stakeholders, including:

- Users of the benchmark – directly (for example, by email to registered licensees and by conference calls where appropriate), through any relevant association(s) and/or through paid advertisements;
- Contributors, if any, associated with the benchmark;
- Redistributors of the benchmark; and
- The media.

IBA would also include relevant information and relevant contact details on its website.
11. **Regulatory action**

It should also be noted that circumstances in which the FCA might exercise one of its supervisory powers could include:

- If the FCA assessed that the USD LIBOR panel had shrunk so significantly, in terms of the number of banks or the market share of the banks remaining, that the FCA no longer considered the relevant rate capable of being representative, or
- If IBA wished to cease publishing USD LIBOR rates and the FCA decided, pursuant to Article 21 (Mandatory administration of a critical benchmark) of the BMR, to require IBA to continue to administer the USD LIBOR rates for up to 10 years.

12. **Cessation of Compelled Publication**

The FCA has exercised its powers under Articles 21(3), 23A and 23D of the BMR to compel IBA to continue the publication of the 1-, 3- and 6- Months GBP and JPY LIBOR settings under a changed, “synthetic” methodology, for the duration of 2022. IBA has previously satisfied all the requirements of its Changes and Cessation Procedure and its Consultation Policy in relation to the cessation of those LIBOR settings and accordingly IBA expects these settings to cease to be published immediately upon termination or expiry of the FCA's compulsion to continue their publication. IBA is currently required to continue publication until year-end 2022.

13. **Review**

This Changes and Cessation Procedure is subject to review at least annually by the LIBOR Oversight Committee.

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