
ARTICLE 21(3) BENCHMARKS REGULATION – NOTICE OF FIRST DECISION

To: **ICE Benchmark Administration Limited**

Reference Number: **608291**

Address: **Milton Gate, 60 Chiswell Street, London
EC1Y4SA, United Kingdom**

Date: **17 May 2024**

1. ACTION

- 1.1. For the reasons given in this Notice and pursuant to Article 21(3) of the Benchmarks Regulation ("BMR"), the Financial Conduct Authority ("the Authority") has decided to compel ICE Benchmark Administration Limited ("IBA") to continue publishing the following LIBOR versions:
- (1) 1-month US Dollar LIBOR,
 - (2) 3-month US Dollar LIBOR, and
 - (3) 6-month US Dollar LIBOR.
- ("US Dollar LIBOR Versions").
- 1.2. The compulsion period shall be for 3 months starting immediately after the publication of the US Dollar LIBOR Versions on 28 June 2024 is concluded and ending immediately after the final publication on 30 September 2024.
- 1.3. The LIBOR panel banks ceased contributing input data in respect of the US Dollar LIBOR Versions after 30 June 2023. IBA notified the Authority that it intended to cease providing the US Dollar LIBOR Versions after 30 June 2023 unless the Authority was to exercise its powers to require IBA to continue to publish the US

Dollar LIBOR Versions on a “synthetic” basis. The Authority subsequently [required IBA](#) to continue publication of the US Dollar LIBOR Versions, under a [changed, “synthetic” methodology](#), which was no longer representative, for an additional year after 30 June 2023 (“Initial Compulsion”). Upon review, the Authority is able to extend this period of compulsion by up to 12 months, where necessary.

- 1.4. At the same time as providing notification of Initial Compulsion, the Authority informed IBA that, subject to the further reviews required by Article 21(3) of the BMR, it intended to use its powers to compel IBA to continue to publish the US Dollar LIBOR Versions for a final period until the end of September 2024, but not beyond that date.
- 1.5. The Authority has now reviewed its Initial Compulsion decision and, having taken account of further feedback and information available to it, has decided to require IBA to continue to publish the US Dollar LIBOR Versions under the existing changed, “synthetic” methodology, for a further 3 months starting immediately after the publication of the US Dollar LIBOR Versions on 28 June 2024 is concluded until immediately after the final publication of the US Dollar LIBOR Versions on 30 September 2024.
- 1.6. The decision as set out in this notice takes effect on a date determined in accordance with this paragraph 1.6. The decision is subject to review in the event of any written representations made by IBA and shall take effect if:
 - (1) IBA makes no representations within the deadline for making such representations, on the date immediately succeeding that deadline; or
 - (2) IBA does make representations and on review of those representations, the Authority confirms to IBA that it maintains the decision set out in this Notice by means of a Second Decision, on the date of that Second Decision or as otherwise set out in that Second Decision.
- 1.7. Accordingly, in view of the absence of certainty as to whether the decision to compel publication contained within this notice will be maintained, the Authority asks IBA to treat this notice as confidential. The Authority requests that IBA does not disclose it or its contents to a third party (except for the purpose of obtaining legal advice on its contents) or publicise this notice without the Authority’s written consent until:
 - (1) the Authority has published the final version of this Notice; or
 - (2) if IBA has made representations, the Authority has confirmed to IBA the decision set out in this Notice by means of a Second Decision.
- 1.8. Please see paragraph 5 of this Notice for important information about procedural rights.

2. SUMMARY OF REASONS

- 2.1. The Authority has decided to exercise its power under Article 21(3) of the BMR to compel the administrator of LIBOR, IBA, to continue publishing each of the US Dollar LIBOR Versions for a further 3 months under the existing changed, 'synthetic', methodology, until 30 September 2024, in order that the US Dollar LIBOR Versions may be ceased to be provided in an orderly fashion. The Authority consulted in [June 2022](#) on the extent to which the US Dollar LIBOR Versions could cease on 30 June 2023 in an orderly fashion ("June 2022 Consultation"). The Authority also consulted in [November 2022](#), among other things, on its proposal to require publication of the US Dollar LIBOR Versions on a synthetic basis until the end-September 2024 ("November 2022 Consultation"). Based on the feedback received to these consultations and further information received through its engagement with market participants and other domestic and international authorities, the Authority considers that it is necessary to extend the period of compelled publication by a period of 3 months and that the US Dollar LIBOR Versions can be ceased on 30 September 2024 in an orderly fashion. This is to provide more time for market participants to complete transition away from the US Dollar LIBOR Versions.
- 2.2. The Authority has no intention to use its powers to compel IBA to continue to publish the US Dollar LIBOR Versions beyond 30 September 2024.

3. DEFINITIONS

- 3.1. In this Notice, the following definitions apply:

"the Benchmarks Regulation" or "BMR" means the Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, which is part of UK law by virtue of the European Union (Withdrawal) Act 2018, as amended by the Financial Services Act 2021 and the Critical Benchmarks (References and Administrators' Liability) Act 2021;

"LIBOR" means the LIBOR benchmark provided by IBA;

"version" has the meaning in Article 23G(2) of the BMR and is used to refer to LIBOR as provided for a particular currency and tenor, sometimes known as a

LIBOR setting.

4. REASONS FOR ACTION

Background

- 4.1. The US Dollar LIBOR panel banks ceased contributing input data in respect of the US Dollar LIBOR Versions after 30 June 2023. IBA had previously notified the Authority that it intended to cease providing the US Dollar LIBOR Versions after 30 June 2023 unless the Authority were to exercise its powers to require IBA to continue to publish the US Dollar LIBOR Versions on a “synthetic” basis.
- 4.2. As mentioned above, the Authority consulted in [June 2022](#) on the extent to which the US Dollar LIBOR Versions could cease on 30 June 2023 in an orderly fashion. The overall feedback received was that, while the majority of outstanding contracts are expected to transition away by end-June 2023, there will likely remain a small but material subset of contracts that will not be able to transition away by that date and a short additional period of publication of the US Dollar LIBOR Versions beyond the end of June 2023 on a “synthetic” basis would help market participants to transition this subset of outstanding contracts. Based on the feedback received to the June 2022 consultation, in [November 2022](#), the Authority consulted on its proposal to require publication of the US Dollar LIBOR Versions on a “synthetic” basis until the end of September 2024.
- 4.3. The Authority’s consultation received almost unanimous support for continued publication of the US Dollar LIBOR Versions beyond end-June 2023.
- 4.4. Based on this feedback, and on the data and information available, the Authority subsequently required IBA to continue publication of the US Dollar LIBOR Versions, under a changed, “synthetic”, methodology, which was no longer representative, for an additional year after 30 June 2023. At the same time and further to the feedback received to its previous consultations, the Authority informed IBA and the market that, subject to the further reviews required by Article 21(3) of the BMR, it intended to use its powers to compel IBA to continue to publish the US Dollar LIBOR Versions for a final period until the end of September 2024, but not beyond that date. This was to ensure that market participants had adequate notice of intended cessation in order that the US Dollar LIBOR Versions could be ceased to be provided in an orderly fashion. The Authority also considered that a clear intended cessation date for the US Dollar LIBOR Versions would provide additional impetus for parties to act and would therefore support the transition.

Ceasing the US Dollar LIBOR Versions in an orderly fashion

- 4.5. Whilst half of the responses to the November 2022 consultation were broadly aligned with the Authority's proposed duration of compulsion, i.e. until end-September 2024, the Authority received feedback from others that some exposures may prove to be more challenging to transition and might potentially remain outstanding after this date: as such, the compulsion period should continue to be reviewed by the Authority. The Authority is required by Article 21(3) of the BMR and its duties under public law to review its previous decision, including before the end of the compulsion period, to take account of the prevailing circumstances.
- 4.6. As part of its review, the Authority considered supervisory data on firms' transition progress and supervisory feedback on firms' preparedness to transition by the end of September 2024, the intended cessation date for the US Dollar LIBOR Versions. Based on data and information available to the Authority, UK supervised entities have demonstrated significant progress in reducing their outstanding US dollar LIBOR exposures and have not identified material concerns completing transition by the intended cessation date.
- 4.7. Further to the feedback received to previous consultations that some assets classes, in particular bonds and loans, might need additional time to transition beyond the end of US dollar panel-bank LIBOR, i.e. the end of June 2023, the Authority has been monitoring transition progress in these markets. The feedback available to the Authority demonstrates increased industry preparedness. The additional three-month period, however, beyond the end of June 2024, is necessary for firms with outstanding exposures to complete their transition plans. At the same time, the Authority considers that orderly transition away from the US Dollar LIBOR Versions will be achieved by the intended cessation date of 30 September 2024.
- 4.8. The Authority has been monitoring developments across jurisdictions through its engagement with international authorities, including the US, and the EU, to ensure orderly transition. The feedback received indicates that there are no material concerns or impediments to transition. As part of its June 2022 and November 2022 consultations, the Authority received feedback that LIBOR transition in emerging markets may be

less advanced than transition in jurisdictions, such as the UK, where LIBOR transition has had a higher profile. To address these concerns, the Authority has used the channels available to it, such as the International Organization of Securities Commissions (IOSCO), to raise awareness of LIBOR transition in these markets. We understand that awareness in these markets is improving, however, the additional three-month period should provide additional time for firms in these markets to progress with their transition plans away from the US Dollar LIBOR Versions.

- 4.9. On the basis of this feedback and all the information available to it, the Authority accepts that the additional three-month period beyond the end of June 2024 is necessary for market participants to complete their transition plans. However, having taken into account market participants' transition progress and level of preparedness, the Authority considers that the US Dollar LIBOR Versions can be ceased in an orderly fashion by the end of September 2024.

Conclusion

- 4.10. The Authority considers that it is necessary for it to extend its compulsion of IBA to continue publication of the US Dollar LIBOR Versions for a further 3 months until immediately after concluding the publication of the US Dollar LIBOR Versions on 30 September 2024. This is to ensure that market participants have the time to complete their transition plans in order that the US Dollar LIBOR Versions may be ceased to be provided in an orderly fashion.
- 4.11. The Authority does not intend to use its powers to compel IBA to continue to publish the US Dollar LIBOR Versions beyond 30 September 2024.

5. PROCEDURAL MATTERS

- 5.1. This Notice constitutes the Authority's First Decision for the purposes of MAR 8.7.5G and is given to IBA in accordance with MAR 8.7.5G. IBA may make written representations by email to the Authority. The deadline for making written representations is 31 May 2024. The address for doing so is:

Vanessa LeBlanc
Manager, Benchmarks Supervision
Email: vanessa.leblanc@fca.org.uk

- 5.2. MAR 8.7.7G(1) states that, where written representations are made to the Authority, the Authority will review its decision and will decide whether to maintain, vary or revoke it. MAR 8.7.7(G)(4) further states that, when the Authority has completed the above review, the Authority will issue a written notice which gives details of the decision in response to the review, its reasons for that decision and state the date on which that decision takes effect.

6. AUTHORITY CONTACTS

- 6.1. For more information concerning this matter generally, contact Vanessa LeBlanc at the Authority (email: vanessa.leblanc@fca.org.uk).

JON RELLEEN

Director of Infrastructure and Exchanges (Supervision, Policy and Competition Division), for and on behalf of the Authority

SIMON WALLS

Director of Wholesale Sell-Side (Supervision, Policy and Competition Division), for and on behalf of the Authority