
ANNEX 4 BENCHMARKS REGULATION – ADDITIONAL NOTICE OF PROPOSED MODIFICATIONS

To: ICE Benchmark Administration Limited (“IBA” or “the Administrator”)

Reference Number: 608291

Address: Milton Gate, 60 Chiswell Street, London EC1Y 4SA,
United Kingdom

Date: 1 January 2022

1. PROPOSED MODIFICATIONS

The FCA proposes that the Benchmarks Regulation and the Relevant BMR Delegated Regulations should apply, with the modifications as shown in Annex 3 of the notice given to IBA on 16 November 2022 (the “**Proposed Annex 4 Modifications**”), to the following LIBOR versions (“**Article 23A LIBOR Versions**”) which pursuant to a notice dated 29 September 2021 have been designated as Article 23A benchmarks:

- (1) 1-month Sterling LIBOR;
- (2) 3-month Sterling LIBOR;
- (3) 6-month Sterling LIBOR;
- (4) 1-month Yen LIBOR;
- (5) 3-month Yen LIBOR; and
- (6) 6-month Yen LIBOR

1.1. Such designation took effect at 00:01 on 1 January 2022.

1.2. The Proposed Annex 4 Modifications would take effect in accordance with a notice given by the FCA to the Administrator under paragraph 6 of Annex 4 of the Benchmarks Regulation (if such notice is given).

2. DEFINITIONS

2.1. The definitions below are used in this Notice:

“Article 23A benchmark” means a benchmark in relation to which a designation under Article 23A of the Benchmarks Regulation has effect

“Article 23D Notice” means the notice given by the FCA under Article 23D(2) of the Benchmarks Regulation and published on 1 January 2022

“the Benchmarks Regulation” or **“BMR”** means the UK version of Regulation (EU) No. 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014, which is part of UK law by virtue of the European Union (Withdrawal) Act 2018

“Relevant BMR Delegated Regulations” means the UK versions of the Commission Delegated Regulations listed in Annex 1 of the notice given to IBA on 16 November 2021, which are each part of UK law by virtue of the European Union (Withdrawal) Act 2018

“the FCA” means the Financial Conduct Authority

“LIBOR” means the ICE LIBOR benchmark provided by IBA

“Unamended BMR Delegated Regulations” means the UK versions of the Commission Delegated Regulations supplementing the BMR, in force at the date of this Notice, which are not Relevant BMR Delegated Regulations.

3. REASONS FOR THE PROPOSED ANNEX 4 MODIFICATIONS

- 3.1. On 16 November 2021 the FCA gave IBA a notice under paragraph 4 of Annex 4 of the Benchmarks Regulation proposing certain modifications that it was proposing to make for the reasons set out in Annex 2 of that notice and having regard to the effects of the designation under Article 23A which was to take effect at 00:01 on 1 January 2022 and/or the FCA’s proposed exercise of its powers under Article 23D(2) as set out in the Draft Article 23D Notice (as defined in that notice).
- 3.2. As of 00:01 on 1 January 2022, the Article 23A LIBOR Versions are Article 23A benchmarks.
- 3.3. On 1 January 2022 the FCA gave IBA a notice under Article 23D(2) of the Benchmarks Regulation.
- 3.4. Having regard to the effects of the Article 23D Notice and the effects of the designation under Article 23A, the FCA has (as required by paragraph 11 of Annex 4 of the Benchmarks Regulation) considered whether to exercise its power under paragraph 3 of Annex 4 of the Benchmarks Regulation.
- 3.5. The FCA considers that it is appropriate to make the Proposed Annex 4 Modifications for the reasons set out in summary in paragraph [3.6] below and in detail in Annex 2 of the notice given to IBA on 16 November 2022 and having regard to the effects of the designation under Article 23A which took effect at 00:01 on 1 January 2022 or the FCA’s exercise of its powers under Article 23D(2) as set out in the Article 23D Notice (or both).

- 3.6. Pursuant to a notice dated 29 September 2021 the FCA designated the Article 23A LIBOR Versions as Article 23A benchmarks with effect from 00:01 on 1 January 2022. As a result of this designation and as a result of the requirement which is imposed on IBA as set out in the Article 23D Notice, certain provisions of the Benchmarks Regulation will no longer be applicable or proportionate to apply in their current form from 1 January 2022 (being the date on which (i) the designation of the Article 23A LIBOR Versions as Article 23A benchmarks takes effect and (ii) the requirements set out in the Article 23D Notice take effect). Therefore, certain provisions of the Benchmarks Regulation and the Relevant BMR Delegated Regulations need to be modified or disapplied as set out in Annex 2 of the notice given to IBA on 16 November 2021.

4. EFFECTS OF THE PROPOSED ANNEX 4 MODIFICATIONS

- 4.1. In respect of the Article 23A LIBOR Versions, if the Proposed Annex 4 Modifications are made, IBA will only be required to comply with the BMR and Relevant BMR Delegated Regulations to the extent that they are modified as shown in Annex 2 of the notice given to IBA on 16 November 2021. The Unamended BMR Delegated Regulations and any provision of the BMR or the Relevant BMR Delegated Regulations which is not modified or disapplied by the Proposed Annex 4 Modifications, if made, will continue to apply in respect of the Article 23A LIBOR Versions in full force and effect, in their unmodified form.

5. PROCEDURAL MATTERS

- 5.1. This Notice is given to IBA under paragraph 4 of Annex 4 of the Benchmarks Regulation.
- 5.2. This Notice is being published by agreement with IBA.

Representations

- 5.3. IBA has the right to make written representations to the FCA. The deadline for making written representations is 14 days beginning with the day on which this Notice is given. The address for doing so is:

Christopher Simon

Benchmarks Supervision Manager

Financial Conduct Authority

12 Endeavour Square

London

E20 1JN

Email: Christopher.Simon@fca.org.uk

FCA contacts

- 5.4. For more information concerning this matter generally, contact the Benchmarks Supervision inbox at the FCA (email: benchmarkssupervision@fca.org.uk).

Edwin Schooling-Latter

Director, Markets, for and on behalf of the FCA