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

To: ICE Benchmark Administration Limited

Reference Number: 608291

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

Date: 29th September 2022

1. ACTION

1.1. For the reasons given in this Notice and pursuant to Article 21(3) of the Benchmarks Regulation, the Financial Conduct Authority (“the Authority”) has decided to compel ICE Benchmark Administration Limited (“IBA”) to continue publishing the following LIBOR versions (“2 LIBOR Versions”):

(1) 1-month sterling LIBOR, and 6-month sterling LIBOR.

1.2. The compulsion period shall be for 3 months starting immediately after the publication of the 2 LIBOR Versions on 30 December 2022 and ending immediately after the final publication on 31 March 2023. The Authority has no intention to use its powers to compel IBA to continue to publish the 2 LIBOR Versions beyond 31 March 2023.

1.3. The LIBOR panel banks ceased contributing input data in respect of the 2 LIBOR Versions after 31 December 2021. IBA notified the Authority that it intended to cease providing the 2 LIBOR Versions after 31 December 2021 unless the Authority was to exercise its powers to require IBA to continue to publish the 2 LIBOR versions on a “synthetic” basis. The Authority subsequently required IBA

to [continue publication of certain LIBOR settings](#), including the 2 LIBOR Versions, under a [changed, "synthetic" methodology](#), which was no longer representative, for an additional year after 31 December 2021 ("Initial Compulsion"). Upon review, the Authority is able to extend this period of compulsion by up to 12 months, where necessary.

- 1.4. On 30 June 2022, the Authority [consulted](#) on ceasing the requirement to continue publication of the 2 LIBOR Versions at the end of March 2023. The Authority has now reviewed its Initial Compulsion decision and intends, in line with its consultation, to require IBA to continue to publish the 2 LIBOR Versions under the existing changed, "synthetic" methodology, for a further 3 months from 30 December 2022 until 31 March 2023.
- 1.5. The decision as set out in this notice takes effect on a date determined in accordance with this paragraph 1.5. 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 notice or as otherwise set out in that Second Decision.
- 1.6. 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) if no representations are made, the deadline for making written representations has passed, 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.
- 1.7. Please see paragraph 5 of this Notice for important information about procedural rights.
- 1.8. This Notice does not relate to 3-month sterling LIBOR, in respect of which the Authority expects to provide further information in due course.

2. SUMMARY OF REASONS

- 2.1. As set out in its consultation, the Authority recognised that market participants would value having a period of notice before the cessation of synthetic sterling LIBOR and that it would take a certain amount of time to announce the outcome

of the consultation. Therefore, to ensure adequate notice of the outcome, the Authority consulted on ceasing the requirement to continue publication of the 2 LIBOR Versions at the end of March 2023.

- 2.2. The Authority has decided, taking into account responses received to its consultation, to exercise its power under Article 21(3) of the Benchmarks Regulation to extend its compulsion of the administrator of LIBOR, IBA, to continue publishing each of the 2 LIBOR Versions under the existing changed, “synthetic” methodology until 31 March 2023, in order that the 2 LIBOR Versions may be ceased to be provided in an orderly fashion.
- 2.3. The Authority has no intention to use its powers to compel IBA to continue to publish the 2 LIBOR Versions beyond 31 March 2023.

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 ICE 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 LIBOR panel banks ceased contributing input data in respect of the 2 LIBOR Versions after 31 December 2021. IBA notified the Authority that it intended to cease providing the 2 LIBOR Versions after 31 December 2021 unless the Authority were to exercise its powers to require IBA to continue to publish the 2 LIBOR versions on a “synthetic” basis. The Authority subsequently required IBA

to [continue publication of certain LIBOR settings](#), including the 2 LIBOR Versions, under a [changed, "synthetic" methodology](#), which was no longer representative, for an additional year after 31 December 2021 ("Initial Compulsion").

- 4.2. Under Article 21(3), the Authority is required to review its Initial Compulsion decision by the end of the Initial Compulsion period and may, where necessary, extend that period by an appropriate period not exceeding 12 months. As part of this review, on 30 June 2022, the Authority conducted a public consultation.
- 4.3. As set out in its consultation, the Authority recognised that market participants would value having a period of notice before the cessation of synthetic sterling LIBOR, and that it would take a certain amount of time to analyse and consider fully the responses received to the consultation (as well as other relevant evidence), to follow up with respondents on any specific issues raised, and to announce the final decision.
- 4.4. Therefore, to ensure adequate notice was provided of any decision, and any resulting cessation, the Authority consulted on ceasing the requirement to continue publication of the 2 LIBOR Versions at the end of March 2023.
- 4.5. The consultation set out assumptions as to why the Authority considers that contracts referencing the 2 LIBOR Versions should be able to transition away in accordance with this timeline, and invited respondents to explain whether there are any reasons why they would not be able to do so.
- 4.6. The consultation closed on 24 August and the Authority has taken into account all responses received in relation to the 2 LIBOR Versions.

Summary of consultation responses

- 4.7. There were 49 responses to the consultation question (Q1) on whether the 1-month sterling LIBOR setting could cease in an orderly fashion at end-March 2023, and 48 responses in relation to the equivalent question on 6-month sterling LIBOR (Q2).
- 4.8. The majority of respondents agreed, or were neutral, in respect of both questions. Some respondents did not provide a clear answer, however they typically acknowledged that outstanding exposures to the 2 LIBOR Versions are relatively low, so the risks and / or challenges associated with cessation are also likely to be low. Some respondents said that having a clear end date could help the chances of completing transition efforts.
- 4.9. One respondent commented specifically on the notice period, saying that 6 months would be sufficient notice of the 2 LIBOR Versions ending. Three respondents welcomed the change in proposal from end-2022 to end-March 2023. One respondent said they would have been supportive of the originally

trailed end-2022 date, but were also supportive of end-March 2023.

Conclusion

- 4.10. The Authority considers that it is necessary for it to extend its compulsion of IBA to continue publication of each of the 2 LIBOR Versions for a further 3 months until 31 March 2023. This is to ensure market participants have adequate notice of cessation, in order that the 2 LIBOR Versions may be ceased to be provided in an orderly fashion. (Note, the Authority has no intention to use its powers to compel IBA to continue to publish the 2 LIBOR Versions beyond 31 March 2023.)
- 4.11. The Authority considers that there are practicable conversion mechanisms available for outstanding contracts referencing the 2 LIBOR Versions in the vast majority of cases, and parties should be able to complete transition in this time. In addition, the Authority considers that providing a clear cessation date will provide additional impetus for parties to act.

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 13th October. The address for doing so is:

Vanessa Le Blanc
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 Le Blanc at the Authority (email: vanessa.leblanc@fca.org.uk).

EDWIN SCHOOLING LATTER

Director of Infrastructure and Exchanges, for and on behalf of the Authority

SIMON WALLS

Director of Wholesale Sell-Side, for and on behalf of the Authority