

March 5, 2021

LIBOR Cessation: FCA Announcement on the End of LIBOR Triggers ISDA's Spread Adjustment Fixing Date

On March 5, 2021, the UK Financial Conduct Authority (“FCA”) “announced the dates that panel bank submission for all LIBOR tenors will cease, after which representative LIBOR rates will no longer be available.”¹ This announcement by the FCA constitutes the “Spread Adjustment Fixing Date” under the IBOR Fallbacks Supplement to the 2006 ISDA Definitions (the “Supplement”) and the ISDA 2020 IBOR Fallbacks Protocol (the “Protocol”) published by the International Swaps and Derivatives Association, Inc. (“ISDA”).² In conjunction with the FCA’s announcement, ICE Benchmark Administration (“IBA”) published a feedback statement, which includes the results of its consultation regarding its intention to cease the publication of overnight and 1, 3, 6 and 12 month USD LIBOR on June 30, 2023, and all other LIBOR rates on December 31, 2021.³

FCA Announcement on the End of LIBOR

In its announcement, the FCA confirmed that all LIBOR tenors “will either cease to be provided by any administrator or no longer be representative” after the following dates:

- For all sterling, euro, Swiss franc and Japanese yen LIBOR tenors, and the 1 week and 2 month USD LIBOR tenors, immediately after December 31, 2021; and
- For the overnight and 1, 3, 6 and 12 month USD LIBOR tenors, immediately after June 30, 2023.⁴

While the FCA confirmed that representative LIBOR rates would not be available beyond these dates, it also stated that it “does not expect” LIBOR tenors to become unrepresentative before such dates.⁵

In addition, under proposed amendments to the UK Benchmarks Regulation, the FCA would have the power to require IBA to continue publishing LIBOR tenors on a “synthetic” basis using a “changed

¹ *Announcements on the end of LIBOR*, available [here](#) (“FCA Announcement”).

² *ISDA Statement on UK FCA LIBOR Announcement*, available [here](#) (“ISDA Statement”).

³ *ICE Benchmark Administration Publishes Feedback Statement for the Consultation on Its Intention to Cease the Publication of LIBOR® Settings*, available [here](#) (“IBA Press Release”).

⁴ FCA Statement.

⁵ *Id.*

methodology.”⁶ The FCA intends to consult regarding requiring IBA to continue the publication of a synthetic rate for the 1 month, 3 month and 6 month GBP and JPY LIBOR tenors, and may consider using these proposed powers for some USD LIBOR tenors as well.⁷

Occurrence of ISDA’s Spread Adjustment Fixing Date

The Supplement and the Protocol amend the 2006 ISDA Definitions and covered trading documentation, respectively, by providing industry-endorsed fallback rates for relevant interbank offer rates (“Relevant IBORs”), including all of the LIBOR tenors addressed by the FCA’s announcement. Upon an Index Cessation Effective Date (as defined in the Supplement or Protocol) with respect to a Relevant IBOR, such Relevant IBOR will be replaced with a fallback rate, equal to a risk-free rate plus a fallback spread adjustment. In the case of USD LIBOR tenors, the fallback rate will be the term adjusted Secured Overnight Financing Rate (SOFR) *plus* a fallback spread adjustment. The occurrence of an Index Cessation Event (as defined in the Supplement or Protocol) causes the fallback spread adjustment to be fixed.

ISDA confirmed that the FCA’s announcement “constitutes an index cessation event” for all LIBOR settings under the Supplement and the Protocol, and that as a result, the fallback spread adjustment will be fixed as of March 5, 2021 for all euro, sterling, Swiss franc, US dollar and yen LIBOR tenors.⁸

Bloomberg Index Services Limited (“Bloomberg”) was selected by ISDA to calculate the fallback rates, including the fallback spread adjustment. On March 5, 2021, Bloomberg published the fallback spread adjustment for all LIBOR tenors across all LIBOR currencies.⁹ The fallback spread adjustment was calculated based on the median spread between the relevant LIBOR tenor and risk-free rate tenor over the five-year period preceding March 5, 2021, the date of the FCA’s announcement.

Application of Fallback Rates After Index Cessation Effective Date

While the FCA announcement triggered a fixing of the fallback spread adjustment for all LIBOR settings, the applicable floating rates under outstanding derivatives contracts will not change until the relevant Index Cessation Effective Date. In the case of any outstanding USD LIBOR-referencing derivatives contract that incorporates the Supplement or is subject to the Protocol, this means that SOFR *plus* the relevant fallback spread adjustment will apply automatically effective July 1, 2023. The rate applicable to outstanding

⁶ *ICE LIBOR® Feedback Statement on Consultation on Potential Cessation*, available [here](#) (“IBA Feedback Statement”).

⁷ IBA Press Release.

⁸ ISDA Statement.

⁹ *Announcement – Spread Fixing Event for LIBOR*, available [here](#). The spread adjustment as crystallized by Bloomberg on March 5, 2021 for USD LIBOR tenors ranges from 0.644 basis points for Overnight USD LIBOR to 71.513 basis points for 12 months USD LIBOR.

derivatives contracts that reference 1 week or 2 months USD LIBOR tenors will be determined by the calculation agent for the contract based on linear interpolation between the Overnight and 1 month or the 1 month and 3 months USD LIBOR tenors between January 1, 2022 and June 30, 2023, before falling back to spread-adjusted SOFR after June 30, 2023. Outstanding derivatives referencing any sterling, euro, Swiss franc and Japanese yen LIBOR tenors will transition to their relevant fallback rates beginning on January 1, 2022.

ICE LIBOR Feedback Statement on Consultation of Potential Cessation

On December 4, 2020, IBA published a consultation regarding its intention to cease the publication of overnight and 1, 3, 6 and 12 month USD LIBOR on June 30, 2023, and all other LIBOR rates on December 31, 2021 (these dates are the same as those announced by the FCA on March 5, 2021). IBA's consultation closed on January 25, 2021, and on March 5, 2021, IBA released its feedback statement on the consultation.¹⁰

Pursuant to the feedback statement, IBA's proposal to continue publishing certain USD LIBOR tenors until June 2023 "attracted the most comments and was supported by the vast majority of respondents."¹¹ In its statement, IBA highlighted comments received regarding "the market and operational challenges" that the different cessation dates for different LIBOR settings could present, as well as challenges regarding cessation at year-end or quarter-end, and the "need for coordination between the official sector globally" given the global nature of the benchmark.¹² IBA explained how this and other feedback received in the consultation feedback is being addressed, noting that the proposal to continue publishing certain USD LIBOR tenors until June 30, 2023 received broad support from both market participants and relevant authorities, and that the year-end timing for phasing out the other LIBOR tenors has been known since July 2017.¹³

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¹⁰ IBA Feedback Statement.

¹¹ *Id.* at 3.

¹² *Id.* at 7.

¹³ *Id.* at 15.

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

Mark S. Bergman
+44-20-7367-1601
mbergman@paulweiss.com

Susanna M. Buerger
+1-212-373-3553
sbuerger@paulweiss.com

Jessica S. Carey
+1-212-373-3566
jcarey@paulweiss.com

Manuel S. Frey
+1-212-373-3127
mfrey@paulweiss.com

Brad S. Karp
+1-212-373-3316
bkarp@paulweiss.com

Jane B. O'Brien
+1-202-223-7327
jobrien@paulweiss.com

Amy L. Barton
+1-212-373-3285
abarton@paulweiss.com

Associate Hilary Christian contributed to this memorandum.