

25 March 2021

## The Cessation of LIBOR and the Resulting Transition

This circular is being addressed to market participants, particularly those falling within the scope of the Benchmarks Regulation ('BMR'), *inter alia* administrators of benchmarks<sup>1</sup>, contributors of benchmarks<sup>2</sup> and users of benchmarks<sup>3</sup>.

### 1.0 Background

On Monday, 05 March 2021, the FCA issued a statement announcing the future cessation or loss of representativeness of the 35 LIBOR benchmark settings which are at present published by ICE Benchmark Administration ('IBA'), an authorised administrator, regulated and supervised by the FCA. This announcement follows the notification made by IBA to the FCA, of its intention to cease providing all LIBOR settings for all currencies, as a result of a recent consultation issued by IBA and notices of future departure received from the majority of panel banks for each LIBOR setting.

### 2.0 About LIBOR

ICE LIBOR (also known as LIBOR) is a widely-used benchmark for short-term interest rates. Used globally, LIBOR is often referenced in derivative, bond and loan documentation, as well as, in a range of consumer lending instruments. LIBOR is currently calculated for five different currencies, namely (i) Euro; (ii) Swiss Franc; (iii) Japanese Yen; (iv) British Pound; and (v) US Dollar. In respect of each currency, LIBOR is also published for seven tenors – overnight/spot next, 1 Week, 1 Month, 2 Months, 3 Months, 6 Months and 12 Months). Accordingly, this tantamounts to the publication of 35 individual rates on each applicable London business day.

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<sup>1</sup> In terms of Article 3(1)(5) of BMR, provision of a benchmark means: (a) administering the arrangements for determining a benchmark; (b) collecting, analysing or processing input data for the purpose of determining a benchmark; and (c) determining a benchmark through the application of a formula or other method of calculation or by an assessment of input data provided for that purpose.

<sup>2</sup> Pursuant to Article 3(1)(8) of BMR, contribution of input data refers to providing any input data not readily available to an administrator, or to another person for the purposes of passing to an administrator, that is required in connection with the determination of a benchmark and is provided for that purpose.

<sup>3</sup> Article 3(1)(7) of BMR defines use of a benchmark as: (a) issuance of a financial instrument which references an index or a combination of indices; (b) determination of the amount payable under a financial instrument or a financial contract by referencing an index or a combination of indices; (c) being a party to a financial contract which references an index or a combination of indices; (d) providing a borrowing rate as defined in point (j) of Article 3 of Directive 2008/48/EC calculated as a spread or mark-up over an index or a combination of indices and that is solely used as a reference in a financial contract to which the creditor is a party; and (e) measuring the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio, or of computing the performance fees.

LIBOR is currently based on submission provided by 11 to 16 Contributor Banks (also referred to as panel banks) for each LIBOR currency, determined pursuant to the LIBOR Output Statement through the use of a standardized, transaction data-driven Waterfall Methodology.

The European Commission has designated LIBOR as a Critical benchmark under the BMR. In order to ensure the integrity and robustness of Critical benchmarks, the Benchmarks Regulations imposes specific requirements for Critical Benchmarks, including in relation to any proposals to cease to provide a Critical benchmark.

### 3.0 The Next Steps for LIBOR

Having completed the necessary assessment on the effect of panel bank departures on LIBOR's ability to represent the underlying market, and of how IBA intends to cease providing LIBOR, the FCA has decided not to require any panel banks to continue submitting to LIBOR beyond the dates from which they have notified their departure, or to require IBA to continue publishing LIBOR on the basis of the panel bank submission beyond such dates. Accordingly, 26 LIBOR settings will permanently cease as follows:-

- Publication of all 7 euro LIBOR settings, all 7 Swiss franc LIBOR settings, the Spot Next, 1-week, 2-month and 12-month Japanese yen LIBOR settings, the overnight, 1-week, 2-month and 12-month sterling LIBOR settings, and the 1-week and 2-month US dollar LIBOR settings will cease immediately after 31 December 2021; and
- Publication of the overnight and 12-month US dollar LIBOR settings will cease immediately after 30 June 2023.

The FCA has also explained that going forward, a number of consultations will be undertaken, particularly, in the context of:

- Requiring IBA to continue publishing the 3 remaining sterling LIBOR settings (1-month, 3-month, 6-month) for a further period after end-2021 on a changed methodology;
- Requiring IBA to continue publishing the 1-month, 3-month and 6-month Japanese yen LIBOR settings after end-2021 on a synthetic basis, for one additional year; and
- Monitoring the possibility of requiring IBA to continue publishing on a synthetic basis the 1-month, 3-month and 6-month US dollar LIBOR settings for a further period after end-June 2023.

Where IBA will be required to continue publishing LIBOR settings, on a synthetic basis, for a particular tenor and currency denomination, immediately after the above stipulated dates, it will no longer be representative of the underlying market and economic reality that such setting is intended to measure. In this respect, all 35 Libor Settings immediately after the dates outlined above will either cease to be provided by any administrator or no longer be representative.

#### 4.0 Required Action

For the purpose of assessing the impact of the LIBOR transition within the local market, by way of this Circular, the Authority urges all its license holders, particularly those who make use of the LIBOR benchmark to undertake an activity as defined in Article 3(1)(7) of BMR, to come forward and provide the necessary details explaining the use of the LIBOR Benchmark, in any currency denomination and tenor, in the course of their business activities.

Such feedback should be provided via email to [benchmarks@mfsa.mt](mailto:benchmarks@mfsa.mt), by not later than Friday, 30 April 2021.

Please be aware that entities which do not provide feedback by the timeframe indicated above will be considered as non-users of Benchmarks for regulatory purposes.

May we remind you that in terms of BMR, use of a benchmark includes;

- (a) Issuance of a financial instrument which references an index or a combination of indices;
- (b) Determination of the amount payable under a financial instrument or a financial contract by referencing an index or a combination of indices;
- (c) Being a party to a financial contract which references an index or a combination of indices;
- (d) Providing a borrowing rate as defined in point (j) of Article 3 of Directive 2008/48/EC calculated as a spread or mark-up over an index or a combination of indices and that is solely used as a reference in a financial contract to which the creditor is a party; and
- (e) Measuring the performance of an investment fund through an index or a combination of indices for the purpose of tracking the return of such index or combination of indices, of defining the asset allocation of a portfolio, or of computing the performance fees.

#### 5.0 Contacts

Should you have any queries relating to the above kindly contact the Authority on [benchmarks@mfsa.mt](mailto:benchmarks@mfsa.mt).

We thank you in advance for your cooperation.