Published on *The National Law Review* https://natlawreview.com

LIBOR LATEST - A Temporary Reprieve for USD LIBOR?

Article By:

Oliver Irwin

Bagyasree Nambron

Often referred to as “the world’s most important number”, the London Interbank Offered Rate (LIBOR) is used as the reference interest rate for a range of commercial and financial contracts worth hundreds of trillions of dollars globally. As market commentators and regulators have been highlighting for many months, the scale and complexity of the LIBOR replacement exercise requires all market participants to prepare for a coordinated transition as soon as possible.

As we enter into the final month of 2020, one of the strangest and most challenging years in recent history, the issue of the impending LIBOR transition remains live and at the forefront of the minds of many market participants. On 30 November 2020 the Financial Conduct Authority (FCA) regulated and authorised administrator of LIBOR, the ICE Benchmark Administration (IBA), announced that it has launched consultations on its intention to cease publication of:

- overnight and 1, 3, 6 and 12 month USD LIBOR settings immediately following the LIBOR publication on 30 June 2023 (as opposed to 31 December 2021); and
- 1 week and 2 month USD LIBOR settings immediately following the LIBOR publication on 31 December 2021.

This announcement was made based on feedback and information IBA received from its LIBOR panel banks and discussions with the FCA and other official sector bodies. The consultation period will cease at the end of January 2021.

The IBA had previously announced on 18 November 2020 that it would also consult on its intention to cease the publication of all GBP, EUR, CHF and JPY LIBOR settings immediately following the LIBOR publication on 31 December 2021.

The FCA responded to the IBA’s latest announcement with a statement that it welcomed and supported the extension of the 31 December 2021 deadline to 30 June 2023, noting that this extension “*will incentivise swift transition, while allowing time to address a significant proportion of the legacy contracts that reference US$ LIBOR*”.

Notwithstanding this extension the FCA’s guidance to market participants remains clear, which is that parties to LIBOR contracts should continue to work to convert these contracts or adopt robust fallbacks (the FCA cited the IBOR Fallbacks Protocol produced by the International Swaps and Derivatives Association (ISDA) as an example of a robust fallback).

On 30 November 2020 the Federal Reserve Board of Governors, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency also issued a statement indicating their consensus with the views of the IBA and the FCA on the extension of the USD LIBOR deadline to 30 June 2023, and reiterating the need for banks to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by 31 December 2021.

In our view any extension of the deadline for IBA to cease to publication of USD LIBOR until 30 June 2023 should, at this stage, only be regarded as a reprieve for what the FCA terms "*tough legacy contracts*" or those LIBOR linked contracts that mature before 30 June 2023.

By way of contrast to USD LIBOR, the FCA has set a deadline of Q1 2021 for market participants to stop entering into new loans underpinned by GBP LIBOR if the loan matures after 31 December 2021. By Q1 2021, the "Working Group on Sterling Risk-Free Reference Rates" expects all financial institutions to have completed their assessment of LIBOR-linked loans maturing after 31 December 2021. In the last 12 months we have seen rapid progress on the methodology for backward looking Risk Free Rates ("RFRs"), which has undoubtedly brought greater clarity to the LIBOR transition process. In the loan market in particular there have already been a number of high profile debt facilities entered into using RFRs. The market has already come a long way in relation to its transition away from "the world's most important number" and we expect further progress to be made in 2021 so as to ensure that the regulators' goal of an "*orderly – and safe and sound – LIBOR transition*" can be achieved.

National Law Review, Volume X, Number 336