

MEMO# 32928

November 19, 2020

LIBOR Update: Updates from the ICE Benchmark Administrator, UK Financial Conduct Authority, and US Federal Reserve Board on USD LIBOR and Tough Legacy Solutions

[32928]

November 19, 2020 TO: ICI Global Regulated Funds Committee

LIBOR Transition Working Group

SEC Rules Committee SUBJECTS: Compliance

Financial Stability

Operations RE: LIBOR Update: Updates from the ICE Benchmark Administrator, UK Financial Conduct Authority, and US Federal Reserve Board on USD LIBOR and Tough Legacy Solutions

We wanted to provide updates from the ICE Benchmark Administrator (IBA), UK Financial Conduct Authority (FCA), and Federal Reserve Board (FRB) about the future of USD LIBOR and potential solutions to tough legacy contracts.

IBA Consultation on LIBOR Cessation, Excluding USD LIBOR

The IBA announced that it will issue a consultation on discontinuing the EU euro, UK sterling, Swiss franc, and Japanese yen LIBORs at the end of 2021.

USD LIBOR is notably excluded from the currencies of LIBOR subject to IBA's upcoming consultation. IBA stated that its discussions with LIBOR-submitting panel banks, the FCA, and other official sector bodies are continuing regarding the future of USD LIBOR. IBA cautioned that there remains no guarantee that it would be able to publish any USD LIBOR after the end of 2021.

FCA Consultation on Powers Under the Proposed UK Financial Services Bill

The FCA issued a statement[\[1\]](#) and two consultations regarding the UK Financial Services Bill[\[2\]](#) which, if enacted, would empower the FCA to change the LIBOR calculation methodology for the benefit of tough legacy contracts.

The first consultation seeks feedback on how the FCA would use the proposed new power to require continued publication of critical benchmarks with a changed.[3] The next consultation sets out the FCA's views on the circumstances in which those powers would become relevant (e.g., where LIBOR is discontinued or determined to no longer be representative).[4]

In its associated statement, the FCA discussed that it would envision using its power where:

- LIBOR currency-tenor settings are widely used in outstanding contracts and/or instruments that cannot practicably be transitioned away from the benchmark rate by actions or agreements by or between contract counterparties themselves; and
- Using the powers would contribute to protecting consumers or preserving market integrity

Feedback on the FCA consultations is due January 18, 2021. ICI will have a member call to review the consultations and discuss member feedback in December.

FRB Vice Chairman Quarles Testimony on Potential Tough Legacy Mechanism

Randal K. Quarles, the FRB's Vice Chair for Supervision, testified at the US House of Representatives Committee on Financial Services[5] and US Senate Committee on Banking, Housing, and Urban Affairs[6] on November 10, 2020.

During his testimony, Quarles indicated that the FRB was working on a "mechanism" for legacy contracts to "mature on their existing basis without having to be renegotiated and shifted to a new rate." Quarles also stated the intention to "find a way to allow those contracts to mature before we have a legislative solution for the so-called hard tail." Further, Quarles signaled that the potential mechanism for tough legacy contracts would not be likely to be used in new issuances.

Quarles expected that the potential mechanism could become public "over the next couple of months."

Bridget Farrell
Assistant General Counsel

endnotes

[1] See FCA consults on new benchmarks powers (November 18, 2020), *available at* <https://www.fca.org.uk/news/statements/fca-consults-on-new-benchmark-powers>.

[2] See ICI Memorandum No. 32855, *available at* https://www.ici.org/my_ici/memorandum/memo32855.

[3] See Consultation on proposed policy with respect to the designation of benchmarks under new Article 23A (November 2020), *available at* <https://www.findknowdo.com/sites/default/files/news/attachments/2020/11/2.pdf>.

[4] See Consultation on proposed policy with respect to the exercise of the FCA's powers under new Article 23D (November 2020), *available at* <https://www.fca.org.uk/publication/policy/consultation-exercise-fca-powers-new-article-23d.pdf>.

[5] See Committee Hearing Webcast, (November 10, 2020) *available at* <https://www.youtube.com/watch?v=7cP11kjnaoM&feature=youtu.be&t=3113>.

[6] See Committee Hearing Webcast, (November 10, 2020) *available at* <https://www.banking.senate.gov/hearings/10/23/2020/oversight-of-financial-regulators>.

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