
ANNEX 4 BENCHMARKS REGULATION – ADDITIONAL NOTICE OF PROPOSED MODIFICATIONS

To: ICE Benchmark Administration Limited (“IBA” or “the Administrator”)

Reference Number: 608291

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

Date: 1 July 2023

1. PROPOSED MODIFICATIONS

The FCA proposes that the Benchmarks Regulation and the Relevant BMR Delegated Regulations should apply, with the modifications as shown in Annex 3 of the notice given to IBA on 31 May 2023 (the “**Proposed Annex 4 Modifications**”), to the following LIBOR versions (“**Article 23A LIBOR Versions**”) which, pursuant to a notice dated 3 April 2023, have been designated as Article 23A benchmarks:

- (1) 1-month US Dollar LIBOR;
- (2) 3-month US Dollar LIBOR;
- (3) 6-month US Dollar LIBOR;

- 1.1. Such designation took effect at 00:01 London time on 1 July 2023.
- 1.2. The Proposed Annex 4 Modifications would take effect in accordance with a notice given by the FCA to the Administrator under paragraph 6 of Annex 4 of the Benchmarks Regulation (if such notice is given).

2. DEFINITIONS

2.1. The definitions below are used in this Notice:

"Article 23A benchmark" means a benchmark in relation to which a designation under Article 23A of the Benchmarks Regulation has effect

"Article 23D Notice" means the notice given by the FCA under Article 23D(2) of the Benchmarks Regulation and published on 1 July 2023

"the Benchmarks Regulation" or **"BMR"** means the UK version of Regulation (EU) No. 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 and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014, 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

"Relevant BMR Delegated Regulations" means the UK versions of the Commission Delegated Regulations listed in Annex 1 of the notice given to IBA on 31 May 2023, which are each part of UK law by virtue of the European Union (Withdrawal) Act 2018, as amended from time to time

"the FCA" means the Financial Conduct Authority

"LIBOR" means the LIBOR benchmark provided by IBA

"Unamended BMR Delegated Regulations" means the UK versions of the Commission Delegated Regulations supplementing the BMR, in force at the date of this Notice, which are not Relevant BMR Delegated Regulations

3. REASONS FOR THE PROPOSED ANNEX 4 MODIFICATIONS

- 3.1. On 31 May 2023, the FCA gave IBA a notice under paragraph 4 of Annex 4 of the Benchmarks Regulation proposing certain modifications that it was proposing to make for the reasons set out in Annex 2 of that notice and having regard to the effects of the designation under Article 23A (which was to take effect at 00:01 London time on 1 July 2023) and/or the FCA's proposed exercise of its powers under Article 23D(2) as set out in the Draft Article 23D Notice (as defined in that notice).
- 3.2. As of 00:01 London time on 1 July 2023, the Article 23A LIBOR Versions are Article 23A benchmarks.
- 3.3. On 1 July 2023, the FCA gave IBA a notice under Article 23D(2) of the Benchmarks Regulation.
- 3.4. Having regard to the effects of the Article 23D Notice and the effects of the designation under Article 23A, the FCA has (as required by paragraph 11 of Annex 4 of the Benchmarks Regulation) considered whether to exercise its power under paragraph 3 of Annex 4 of the Benchmarks Regulation.
- 3.5. The FCA considers that it is appropriate to make the Proposed Annex 4 Modifications for the reasons set out in summary in paragraph 3.6 below and in detail in Annex 2 of the notice given to IBA on 31 May 2023 and having regard to the effects of the designation under Article 23A (which took effect at 00:01 London time on 1 July 2023) or the FCA's exercise of its powers under Article 23D(2) as set out in the Article 23D Notice (or both).

- 3.6. Pursuant to a notice dated 3 April 2023, the FCA designated the Article 23A LIBOR Versions as Article 23A benchmarks with effect from 00:01 London time on 1 July 2023. As a result of this designation and, as a result of the requirement which is imposed on IBA as set out in the Article 23D Notice, certain provisions of the Benchmarks Regulation will no longer be applicable or proportionate to apply in their current form from 1 July 2023 (being the date on which (i) the designation of the Article 23A LIBOR Versions as Article 23A benchmarks takes effect and (ii) the requirements set out in the Article 23D Notice take effect). Therefore, certain provisions of the Benchmarks Regulation and the Relevant BMR Delegated Regulations need to be modified or disapplied as set out in Annex 3 of the notice given to IBA on 31 May 2023.

4. EFFECTS OF THE PROPOSED ANNEX 4 MODIFICATIONS

- 4.1. In respect of the Article 23A LIBOR Versions, if the Proposed Annex 4 Modifications are made, IBA will only be required to comply with the BMR and Relevant BMR Delegated Regulations as modified, as shown in Annex 3 of the notice given to IBA on 31 May 2023. The Unamended BMR Delegated Regulations and any provision of the BMR or the Relevant BMR Delegated Regulations which are not modified or disapplied by the Proposed Annex 4 Modifications, if made, will continue to apply in respect of the Article 23A LIBOR Versions in full force and effect, in their unmodified form.

5. PROCEDURAL MATTERS

- 5.1. This Notice is given to IBA under paragraph 4 of Annex 4 of the Benchmarks Regulation.
- 5.2. This Notice is being published by agreement with IBA.

Representations

- 5.3. IBA has the right to make written representations to the FCA. The deadline for making written representations is 14 days beginning with the day on which this Notice is given. The address for doing so is:

Vanessa LeBlanc

Benchmarks Supervision Manager

Financial Conduct Authority

12 Endeavour Square

London

E20 1JN

Email: vanessa.leblanc@fca.org.uk

FCA contacts

- 5.4. For more information concerning this matter generally, contact the Benchmarks Supervision inbox at the FCA (email: benchmarkssupervision@fca.org.uk).

Jon Relleen

Director of Infrastructure & Exchanges (Supervision, Policy and Competition Division), for and on behalf of the FCA