CONTINGENCY POLICY / PROCEDURE

1. Introduction

This document sets out the framework of steps that ICE Benchmark Administration Limited (IBA) would take to invoke the contingency arrangements set out below in the event of a short-term inability to produce ICE LIBOR™ (LIBOR™).

It should be noted that the contingency arrangements are designed to apply when other measures have been attempted, particularly the Reduced Submissions Policy. If the issue is known and can be fixed in the near future, the Contingency Procedure will not be invoked but the Reduced Submissions Policy will apply.

The purpose of this Contingency Policy/Procedure is to:

- Ensure that the contingency measures are invoked appropriately, quickly, smoothly and consistently;
- Ensure that contingency decisions are taken at an appropriately senior level within IBA and in coordination with relevant stakeholders; and
- Consider any remedial measures that may avoid recurrence of the need to invoke the contingency measures.

It should be noted that the steps below would be adjusted as required by IBA depending on the circumstances.

1.1 The UK Government announced on 23 June 2020 that it intends to legislate to ensure that the UK Financial Conduct Authority (FCA) has the appropriate regulatory powers to manage and direct any wind-down period prior to eventual LIBOR cessation.

The new regulatory powers would enable the FCA to direct a methodology change for LIBOR, in circumstances where the FCA has found that:

- The benchmark is not representative of the market it seeks to measure;
- The benchmark’s representativeness will not be restored; and
- Action is necessary to protect consumers and/or to ensure market integrity and it is feasible for the administrator to change the methodology in the way required.

Existing law would also be strengthened to prohibit the use of LIBOR where its representativeness will not be restored, whilst giving the FCA the ability to specify limited continued use in legacy contracts.

The FCA has welcomed the announcement and proposes to publish statements of policy on its approach to potential use of these powers following further engagement with stakeholders in the UK and internationally. In particular, the FCA has also noted that it will seek stakeholder views on possible methodology changes based on the alternative risk free rates chosen in each of the LIBOR currency jurisdictions, and on the consensus already established in international and UK markets on a way of calculating an additional fixed credit spread that reflects the expected difference between LIBOR and risk-free interest rates.

Both the UK Government and the FCA advise that market participants should continue to focus on active transition of legacy contracts on terms that they themselves agree with their counterparties, because this is the only way to have certainty as to contractual continuity and
control over contractual terms. They caution that parties who rely on regulatory action, enabled by the proposed legislation, will not have control over the economic terms of that action. Moreover regulatory action may not be able to address all issues or be practicable in all circumstances, for example where a methodology change is not feasible, or would not protect consumers or market integrity.

2. **Background**

Shortly after IBA became the administrator of LIBOR, a Working Group of the LIBOR Oversight Committee was established to consider possible contingency measures to ensure that LIBOR could continue to be published in cases of extreme market stress.

After examining a range of possible solutions, the Working Group concluded that no single solution could satisfy the market’s needs for a rate without incurring risks and limitations.

The LIBOR Oversight Committee endorsed the Working Group’s proposal for a contingency rate composed of a ‘fixed/historical’ spread over a Related Rate for a temporary time period.

3. **Overview of the Reduced Submissions Policy**

The Reduced Submissions Policy would apply if fewer submissions than usual are received.

In accordance with that Policy, IBA would calculate LIBOR using fewer submissions than usual.

If four or fewer bank submissions were received, IBA would publish the previous day’s LIBOR rates for the affected currency/ies.

The Reduced Submissions Policy is available on IBA’s website.

4. **Contingency steps**

4.1 **Informing and consulting**

The number of days that the previous day’s LIBOR could be used would depend on the prevailing circumstances and practicalities.

If the previous day’s LIBOR rates have to be published for any currency/ies for any day and if the circumstances are expected to persist, IBA will inform and consult with the following:

- FCA;
- Central Bank(s) for the affected currency/ies; and
- Chair of the LIBOR Oversight Committee.

It is probable that an ad-hoc meeting of the LIBOR Oversight Committee would be convened. The Board of IBA would then be informed.

4.2 **Gathering market intelligence**

In parallel, IBA would seek to garner any market intelligence pertinent to the event which caused the initiation of the contingency policy/procedure.
4.3 Adjusting the previous day’s LIBOR

Consideration will be given as to whether it would be appropriate to publish the previous day’s LIBOR as adjusted by the change from the previous day in a Related Rate, noting that:

- Related curves (e.g. OIS and Repos) are not always available in all LIBOR currencies and tenors; and
- In some circumstances, OIS, repos etc. may be very volatile and illiquid.

4.4 Contingency Rate

The Contingency Rate should be considered as a further and later stage, composed of two parts:

- Contingency Rate = Related Rate + Spread element.

5. Contingency Rate components

5.1 Related Rate

IBA would use one or more of the following, as set out in more detail below:

- OIS curves;
- Repurchase Agreement curves;
- Yield Curve data;
- Policy rates; and/or
- Alternative nearly risk-free benchmark term rates (term RFRs) where available.

The choice in the prevailing circumstances would depend on the nature of the disruptive event, availability, liquidity and market conditions. The choice would be made by IBA after consultation with the LIBOR Oversight Committee and the relevant authorities.

5.2 Spread Element

IBA might, without limitation, use one of the following:

- a fixed historical spread of LIBOR versus the Related Rate based on the last known prices; or
- an average of this spread for a given number of days.

The choice in the prevailing circumstances would depend on the nature of the disruptive event, availability, liquidity and market conditions. The choice would be made by IBA in consultation with the LIBOR Oversight Committee and the relevant authorities.

6. Implementation

6.1 Gathering data and consulting

On selection of the Related Rate and Spread Element, IBA would gather data and calculate LIBOR for the affected currency/ies for discussion with the LIBOR Oversight Committee.

IBA will then notify the relevant authorities of the outcome before moving into implementation.
6.2 Decision-making

A decision to move to a contingency rate would be taken by the IBA Board after due consideration of the LIBOR Oversight Committee and/or the appointed Sub-Committee (if any).

6.3 Communications

IBA’s communication measures will include the following as appropriate in the circumstances:

- Emails to licence holders;
- One or more press releases; and
- Information on IBA’s website.

Transparency will be important for users. For this reason, any publication of a rate which uses a contingency measure will be accompanied by an explicit description of the variation from IBA’s usual practices.

7. Record keeping

A record of the events leading up to the invocation of this Contingency Policy / Procedure will be documented and retained by IBA.

8. Review

This Policy/Procedure is reviewed periodically by the LIBOR Oversight Committee and is subject to change.

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