

TYPES NOT MAPPED YET January 22, 2021 | TTR not mapped yet | Ruthanne C. Hammett

# The current status of LIBOR replacement and what financial institutions and their customers need to know now

The London Inter-bank Offered Rate (LIBOR) is an interest-rate average calculated from estimates submitted by leading banks in London. It is administered by ICE Benchmark Administration (IBA), and regulated by the Financial Conduct Authority (FCA) of the United Kingdom. LIBOR is a vital interest rate component in literally trillions of dollars of numerous financial products and contracts—consumer loans, mortgage loans, credit cards, commercial loans (bi-lateral and syndicated) and interest rate derivatives. Though inter-bank rates are determined for several currencies including the U.S. Dollar, this article focuses on U.S. Dollar LIBOR.

In 2017, the FCA announced that after 2021 it would no longer require banks to submit the rates required to calculate LIBOR. In response to the 2017 announcement, financial institutions, regulators and other stakeholders have been working to create a replacement to LIBOR. In the U.S., the center of this effort has been the Alternative Reference Rates Committee (ARRC), whose members are major financial institutions and related trade associations and was formed by the Federal Reserve Board and the Federal Reserve Bank of New York.

On November 30, 2020, IBA, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency issued announcements about the future of USD LIBOR.

### IBA

IBA announced on November 30, 2020 its release of a consultation as to when to end the publication of U.S. Dollar LIBOR tenors (or periods) (as proposed, the 1 week and two month periods would cease on **December 31, 2021** and the other U.S. Dollar LIBOR periods- 1, 3, 6 and 12 months- would cease on **June 30, 2023**, an extension of a previously expected cessation at the end of 2021).

Comments to the proposed timeline of the elimination of U.S. Dollar LIBOR periods are due by **January 25, 2021**. After this feedback is received, the IBA will share the results with the FCA and it is expected to be adopted by many financial regulators.

### Federal Banking Agencies

Also, on November 30, 2020, the federal banking agencies listed above together issued a supervisory guidance in response to IBA's announcement. This guidance:

- encouraged banks to stop using LIBOR in new financial contracts as soon as practical and, in any event, by **December 31, 2021**;
- acknowledged that the **June 30, 2023** date for cessation of the remaining LIBOR periods should allow most legacy LIBOR contracts to mature before then;
- advised that, any new financial contract entered into **during 2021** that has a reference rate should either utilize a reference rate other than LIBOR or have robust fallback language that includes a clearly defined alternative reference rate after LIBOR's discontinuation;
- emphasized that the failure to prepare for disruptions to U.S. Dollar LIBOR, including operating with insufficiently robust fallback language, could undermine financial stability and the safety and soundness of financial institutions.

## Takeaways

- All financial institutions should continue to actively prepare for the cessation of LIBOR.
- If not already finalized, financial institutions should swiftly put the finishing touches on policies affected by the cessation of LIBOR and the language to be used in new and amended financial contracts.
- Bank customers should consult with their financial institutions about the plans for LIBOR replacement and the effect the transition from LIBOR will have on their financial contracts.
- Look for IBA's announcement of the consultation results on or shortly after January 25, 2021.

We will periodically provide our clients with information and updates on LIBOR as the cessation dates approach. For any questions, please reach out to the authors below or your regular Thompson Coburn contact.

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