

March 19, 2021

Services

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Most Recent LIBOR Announcement

On March 5, 2021 the UK Financial Conduct Authority (the FCA) and the LIBOR administrator (IBA) completed their consultation on LIBOR cessation and the FCA [announced](#) the following conclusions with respect to US Dollar LIBOR. While the announcement was widely anticipated, it does represent another step in the inexorable march to end LIBOR.

1. Two week and 2 month USD LIBOR will cease December 31, 2021.
2. Overnight and 1 year USD LIBOR will cease June 30, 2023.
3. The FCA also made a formal finding that the 1, 3 and 6 month tenors of USD LIBOR will no longer be representative of the underlying market after June 30, 2023. Meaning, under the current ISDA Definitions and the IBOR Fallbacks Protocol (and any contracts that use the pre-cessation trigger language developed by the Federal Reserve's Alternative Reference Rates Committee (ARRC)) the fallback rate for the 1, 3 and 6 month tenors will take effect on June 30, 2023 whether or not some version of a "synthetic LIBOR" continues to be published.
4. The FCA may, after consulting with US authorities, use its powers under pending UK legislation to require IBO to continue publishing 1 month, 3 month and 6 month USD LIBOR after June 30, 2023 but the rates will be calculated on a different basis than the current method of polling a group of banks, which is often referred to as a "synthetic LIBOR." Any version of synthetic LIBOR will be determined very differently than LIBOR is today and, therefore, it is very unlikely issuers will be able to use synthetic LIBOR as a replacement for the original LIBOR in contracts.

The FCA announcement serves as an index cessation event under ISDA's Protocol, which in turn triggers fixing the spread adjustments that will be applied to account for the historical differences between USD LIBOR and compounded SOFR in ISDA-governed derivatives. Therefore, ISDA's spread adjustments have now been finalized (based on the median difference between corresponding tenors of the applicable rates for the five-year period ending March 5, 2021) and published by Bloomberg. Because ARRC has already indicated that its recommended spread adjustments will use the same values as ISDA, the adjustments for loans with ARRC "hardwired approach" fallbacks have also been effectively fixed.

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[The FCA announcement can be found here.](#)

The most important thing an issuer can do is first determine whether it has any contracts that use any version or tenor of LIBOR. Only with that information can the issuer determine what to do next, or if it needs to do anything at all. This announcement will most likely bring a renewed push from swap dealers and banks for issuers to adhere to the Protocol or take other mitigating actions. Our December 9, 2020 [Client Alert](#) provides additional information on the transition and how to prepare.

Additional Information

If you have questions about any of the foregoing, please contact any of the attorneys listed on the left in Kutak Rock's [Housing Finance Agency Practice Group](#). We would be happy to discuss this with you.

