HM Treasury

Amendments to the Benchmarks Regulation to support LIBOR transition

Policy Statement

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public.enquiries@hmtreasury.gov.uk

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Amendments to the Benchmarks Regulation to support LIBOR transition

1.1 On 21 October the government introduced the Financial Services Bill to Parliament. This Bill includes amendments to the Benchmarks Regulation (BMR), which provide the Financial Conduct Authority (the FCA) with new and enhanced powers to oversee the orderly wind-down of critical benchmarks, such as LIBOR.

1.2 As outlined in the Chancellor's statement in June, firms should continue to prioritise active transition away from LIBOR to alternative benchmarks. It is in the interests of financial markets and their customers that the pool of contracts referencing LIBOR is shrunk to an irreducible core ahead of LIBOR's expected cessation after end-2021.

1.3 However, in bringing forward this legislation, the government recognises that some contracts face insurmountable barriers in transitioning away from LIBOR to an alternative benchmark ("tough legacy" contracts). This Bill amends the BMR, providing an overarching legal framework which gives the FCA new and enhanced powers to manage the wind-down of a critical benchmark. This legislation does not pre-determine or fix outcomes for parties to contracts, but instead enables the FCA to take an appropriate course of action in order to protect consumers and ensure market integrity.

1.4 A comprehensive description of the changes made to the BMR by this Bill is available on the UK Parliament website. In summary, the Bill provides new and enhanced powers for the FCA where it has determined that a critical benchmark is at risk of becoming unrepresentative, or has become unrepresentative, and that its representativeness cannot reasonably be maintained or restored. In particular, in order to provide for the orderly wind-down of the benchmark, the FCA will be able to direct a change in the methodology of a critical benchmark and extend its publication for a limited time period for the benefit of "tough legacy" contracts.

1.5 In such a scenario, use of that benchmark by UK supervised entities will be prohibited. However, in order to ensure an orderly wind-down of the benchmark for "tough legacy" contracts, the FCA will have discretion to determine specific categories of contracts which will be exempt from this prohibition on use. HM Treasury and the FCA are of the view that this exemption is intended for those contracts that genuinely have no realistic ability to be renegotiated or amended to transition to an alternative benchmark.

1.6 Before exercising certain new powers, the FCA will be required to issue statements of policy to inform the market about how it intends operationalise the legal framework set out under the BMR. The FCA will be able to engage with industry stakeholders and international counterparts as appropriate through this process.

1.7 As the home jurisdiction of LIBOR's administrator, the UK has a distinct role to play in minimising financial stability risks and disruption to financial systems from LIBOR wind-down in the UK and globally. Alongside the FCA and the Bank of England, the government stands ready to work with our international partners to coordinate respective legislative and regulatory approaches to support an orderly global wind-down of LIBOR.

HM Treasury contacts

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If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk