



Infrastructure and Project Authority Update in relation to Discontinuation of LIBOR applied to PFI

In February 2021, the Infrastructure and Projects Authority (“the IPA”) published a guidance note “Discontinuation of the London Interbank Offered Rate - applied to PFI Projects” (the “Guidance Note”). Coordination and consultation with private financiers has continued, and a working group has participated in the Financial Conduct Authority’s (FCA) [consultation](#)¹ on synthetic LIBOR for tough legacy contracts. The Bank of England has provided further proposals and [information](#)², and the FCA has confirmed that most LIBOR panels including sterling will cease immediately after [31 December 2021](#)³.

The IPA now expects to provide further guidance (“Further Guidance”) later in the summer once we have greater detail and clarity as to how PFI investors are proposing to implement the transition from LIBOR to SONIA within PFI projects (the “Transition”). There is now a significant timing challenge to implement the Transition before the end December 2021 regulatory deadline.

This note is provided as an update to PFI contracting authorities (Authorities) and other PFI market participants.

PFI Market Update

The IPA has engaged extensively with market participants to drive forward the definition by financiers and PFI investors of the technical, financial and practical processes of Transition within PFI. Following updates by ISDA in April 2021, consensus is now emerging on these processes. Certain investors are planning to test their proposed approach to the Transition in pilot projects. The IPA is supporting this process with Authorities as a key step to formulating our Further Guidance.

The cessation of LIBOR as an interest rate benchmark at the end of December 2021 and the move to SONIA (Sterling Overnight Index Average) is a regulatory change, which we understand the financial markets are intending to implement at a PFI funding level on a neutral – no gain, no loss – basis between loan and swap participants.

The unitary payments under PFI projects will be unaffected by this regulatory change. It is not expected that project agreements will require amendment unless LIBOR is directly referenced.

Authority consent is, however, likely to be required in respect of the underlying financial changes within the financing arrangements between the PFI project company and its funders necessary to effect the regulatory change before the deadlines set out by the FCA. The documentation changes are likely to be bespoke to each project.



Next Steps for Authorities

We anticipate and welcome that project companies will shortly commence briefing Authorities with regard to Transition and the changes that are required to the financing agreements of individual PFI projects. In turn, we would encourage Authorities to engage with their project counterparties on this issue.

IPA is not expecting that initial briefings will include specific consent requests and, pending Further Guidance, Authorities should consider any such request with care.

However, as Authorities can expect that in the near future a request for consent to the financing documentation changes to implement the Transition will be made, they should consider now the approval steps and timings this will involve and inform their project companies of such approval timescales to help ensure the Transition goes smoothly.

Devolved Administrations

The IPA has been working closely with Scottish Futures Trust and liaising with the Strategic Investment Board and the Welsh Treasury on LIBOR transition and it is likely that the position within the IPA Further Guidance will closely inform the position to be adopted within the devolved administrations.

Notes

1 <https://www.fca.org.uk/publications/consultation-papers/cp21-15-benchmarks-regulation-how-we-propose-use-our-powers-over-use-critical-benchmarks>

2 <https://www.bankofengland.co.uk/markets/transition-to-sterling-risk-free-rates-from-libor>

3 <https://www.fca.org.uk/markets/libor>