I.L.O.C.—BBALIBOR Joint Consultation Paper

on

LIBOR Re-fixing

– Summary of Responses[1] –

On 7th October 2013, the Interim LIBOR Oversight Committee ("ILOC")[2] and BBA LIBOR Ltd ("BBALIBOR")[3] launched a joint consultation on the introduction of re-fixing for LIBOR rates which are found to be in error as initially published. The consultation was made publicly available on the BBALIBOR website.[4] This paper summarises the responses received. Consultation questions are listed in an appendix for ease of reference.

Introduction and Executive Summary

1. The joint consultation proposals on intraday re-fixing were drawn up in line with guidelines and principles published by national and supranational authorities designed to ensure the production of consistently accurate and transparent rates in the administration of benchmarks. They covered the timing and frequency of re-fixings, as well as the impact of re-fixing on existing agreements linked to the benchmark and related transition issues. Recommendations concerning *de minimis* errors and rounding in the published values for LIBOR were also presented. It was anticipated that implementing intraday re-fixing on the model set out in the consultation would increase the transparency and integrity of the benchmark while minimising the impact on financial contracts and accommodating panel banks' internal review processes.

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[1] This summary has been produced by the Interim LIBOR Oversight Committee and BBA LIBOR Ltd with the assistance of Joanna Perkins.

[2] In April 2013 BBA LIBOR Ltd, as the interim LIBOR Administrator, established the ILOC as required by the Financial Conduct Authority's Regulations and recommended by the *Wheatley Review of LIBOR: Final Report* (Recommendation 2).

[3] The current Administrator of the LIBOR benchmark is BBA LIBOR Ltd. It was agreed on 9 July 2013 that the administration of LIBOR would be handed over to ICE BA, a new subsidiary of Intercontinental Exchange (previously NEuRAL). Subject to authorisation from the Financial Conduct Authority and following a period of transition, ICE BA is expected to take over the administration of LIBOR in 2014.

[4] I.L.O.C.—BBALIBOR Joint Consultation Paper: http://www.bbalibor.com/news/bba-libor-consultation

Views on the proposals were invited. Respondents were also asked whether they had any additional comments or concerns they wished to raise.

2. BBALIBOR received feedback from thirteen respondents, including panel banks, infrastructure bodies and industry associations.

3. Ten respondents addressed the questions in the consultation. Individual questions attracted an average of nine answers. These answers are analysed in the sections below. In brief summary:

   a. Of those who expressed a view, a majority support the introduction of intraday re-fixing.

   b. On the assumption that intraday re-fixing is introduced, respondents are almost unanimous in recommending that i) the initial fixing continue to be presented as the "final" rate; ii) there be no re-fixing for *de minimis* errors; and iii) the proposal be restricted to a single re-fixing, only when necessary, at a cut-off within a few hours of the initial fixing.

   c. 3.00 pm and 4.00 pm are the two most common suggestions for an appropriate cut-off. There is clear majority agreement that banks will be able to identify inaccuracies in their 11.00 am submissions by 3.30 pm, if not even earlier.

   d. Of those who expressed a view, a majority consider that the introduction of intraday re-fixing should not present significant problems for either existing or future contracts, provided that the transition is an orderly one with an adequate implementation period of anything up to one year. Several respondents recommend that industry associations be invited to play a role in facilitating transition.

4. In addition, three respondents sent in general comments.

   a. All three respondents consider it important to optimise procedures designed to eliminate the possibility of errors in the initial fixing before introducing re-fixing.

   b. One respondent is of the view that the revised value should be published within one hour of the initial fixing and another of the view that the cut-off should be "not later" than 4.00 pm.

   c. One respondent considers that the proposed eight week implementation period is too short.

   d. Rounding the published value for LIBOR to three decimal places would be undesirable for end users, according to one respondent.

LIBOR re-fixing (questions 1 and 2)

5. Six of ten respondents who directly expressed a view on the introduction of intraday re-fixing for LIBOR supported the proposal in principle. Of the four who disagreed, two respondents expected that the adoption of the proposed *de minimis* threshold by rounding published values to fewer decimal places (see below) would eliminate the need for re-fixing. Another thought that there should instead be a greater emphasis on ensuring the initial fixing is accurate.[5] One respondent recommended publishing errors without any formal re-calculation and re-fixing.

6. Notwithstanding this support for intraday re-fixing in principle, nine out of ten respondents emphatically agreed that the initial fixing published at or about 11.45 am each day should continue to be presented as the "final" rate.

***De minimis* errors (questions 3 to 5)**

7. Nine out of ten respondents agreed that the administrator should institute a policy on *de minimis* errors in the event that intraday re-fixing is introduced and, of these, six agreed that eliminating errors with an impact on the fixing of less than one tenth of a basis point would establish a suitable threshold. Two of the respondents who wanted the administrator to implement a different threshold suggested that the *de minimis* policy should be more sensitive to the currency, the tenor or the volatility of the benchmark.

8. Seven of ten respondents supported rounding the published values for LIBOR to three decimal places. Two respondents objected that it would undermine the accuracy of the fixings and one respondent queried whether rounding would affect the definition of LIBOR.[6]

"Cut-off" (questions 6 to 9)

9. Respondents were unanimous and emphatic in agreeing that intraday re-fixing should be restricted to a single re-fix, where necessary, at a cut-off point within a few hours of the initial fixing. There was, however, no consensus on the appropriate cut-off point. Only three respondents agreed that 4.00 pm would be the best time at which to publish a re-fixing. One respondent preferred 5.00 pm; another expressed concern that errors could still become

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5 See also paragraph 4.a above.

6 See also paragraph 4.d above.

manifest after 4.00 pm; and yet another emphasised that the timing should accommodate banks' control and supervisory procedures. Four respondents wished to see the publication cut-off established earlier than 4.00 pm, of which two recommended a cut-off at 3.00 pm. One industry association thought that a single hour, i.e. a cut-off at approximately 12.45 pm, ought to be sufficient for identifying and communicating errors after the initial fixing.[7]

10. Consultation responses provided some considerable comfort that, if necessary, banks could identify inaccuracies in their 11:00 am submissions before 3:30 pm to facilitate a cut-off at 4.00 pm, with seven of nine respondents expressing this view. The two remaining respondents were more cautious but did not go so far as to suggest that a review within this timeframe was impossible. Three respondents, including two banks, indicated that errors could be reliably identified and communicated early enough to facilitate a cut-off prior to 4.00 pm.

11. A majority of those who considered the matter either did not identify any issues likely to arise for financial activities or contracts from the introduction of intraday re-fixing with a cut-off at 4.00 pm or anticipated that such issues could be avoided with due attention to transition arrangements, provided that confidence in the "final" initial fixing is maintained. The four remaining respondents considered that any issues likely to arise could be mitigated by an earlier cut-off time.

Implementation (question 10)

12. Six out of ten Respondents argued that eight weeks would be too short a notice period for the introduction of intraday re-fixing. Alternative implementation periods of between 12 weeks and 12 months were suggested.[8]

Contracts on market standard terms (questions 11 to 15)

13. On the question whether re-fixing would affect the performance of existing agreements on market standard terms, six of nine respondents agreed with, or broadly accepted, the view set out in the consultation that intraday re-fixing would have little impact on existing agreements. Two of these thought, however, that there would be some confusion as to whether the initial

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7 See also paragraph 4.b above.

8 See also paragraph 4.c above.

fixing represents the rate payable. The remaining three respondents suggested that the impact would be hard to evaluate. Recommendations that industry associations be invited to consult further on the proposals and/or issue guidance on the interpretation of standard terms were received.

14. A majority of respondents (seven of nine) took the view that parties to existing agreements are unlikely to amend their terms to take account of the introduction of intraday re-fixing and three of these thought that market participants would also hesitate to revise market standard terms for future contracts. The remaining four expected that work would be undertaken to revise market standard terms with a view to accommodating re-fixing in future contracts. An overall majority of respondents, or 70% of those who expressed a view, agreed with the consultation paper's assessment that revision of market standard terms need not give rise to significant problems in the context of an orderly transition.

Conclusion

15. Taken as a whole, responses revealed broad support for the introduction of intraday re-fixing on the model presented in the consultation.

16. A majority of respondents who directly expressed a view agreed with each of the proposals, excepting only the proposals for a cut-off at 4.00 pm and for an eight-week notice period before implementation. Several respondents were strongly of the view that an earlier cut-off would be more appropriate and most respondents were in favour of a longer implementation period. These recommendations, together with the rest of the feedback from the consultation, will be closely reviewed by ICE BA when it takes over the administration of LIBOR in 2014.

APPENDIX–Consultation Questions

1. **In principle, do you support the introduction of re-fixing for LIBOR, in line with international standards on the accuracy and transparency of financial benchmarks?**

2. Re-publication should occur only on occasions where an adjustment proves necessary and the initial fixing published at or about 11.45 am each day should continue to be presented as the "final" rate to all intents and purposes. **Do you agree the initial fixing published at or about 11.45 am each day should continue to be presented as the "final" rate?**

3. We propose to establish a *de minimis* threshold for re-fixing below which errors will be disregarded. **Do you consider that observing a *de minimis* threshold (and ignoring errors below that threshold) is a good idea when implementing re-fixing?**

4. We think that that a fair and reasonable *de minimis* policy would eliminate errors with an impact smaller than one tenth of a basis point. **Do you agree that this would achieve an acceptable *de minimis* threshold for errors? If not, what threshold would you like to see?**

5. A *de minimis* threshold of this kind can be achieved by rounding published values, as they appear on the Reuters Screen LIBOR01 page, to three decimal places. At present LIBOR is publishable to five decimal places. **Do you consider that rounding the published values for LIBOR to fewer decimal places is a satisfactory way to implement a *de minimis* threshold? If so, is rounding to three decimal places the right approach?**

6. Predictability will be improved if a policy is adopted of publishing (at most) a single re-fixing at the cut-off i.e. a time beyond which no further re-fixing will occur. **Do you agree with this proposal to restrict re-fixing to a single re-fix, where necessary, at the cut-off?**

7. The later the re-fix cut-off is set, the greater the likelihood that any material errors will come to light; this objective must be balanced against the desirability of minimising operational and practical inconvenience for market participants. **Do you agree that a 4.00 pm re-fix cut-off strikes the right balance between accuracy and expediency? If not, do you think a re-fix cut-off at 5.00 pm would better serve the objectives of integrity and transparency? Would you support next-day re-fixing?**

8. **Are you aware of any problems which the proposed 4.00 pm re-fix cut-off may cause for specific financial activities or contracts? In your opinion, how may these problems best be mitigated?**

9. We think that the incidence of reported errors being advised to the Administrator after the re-fix

cut-off can be minimised by encouraging Panel Banks to conduct their review processes promptly after the 11.00 am submission deadline and to report errors before 3.30 pm. **Do you take the view that it is feasible for banks to identify inaccuracies in their 11:00 am submissions before 3.30 pm the same day? If not, what are the reasons for this? Would a 5.00 pm re-fix cut-off better accommodate the review processes involved?**

10. Our proposal will alter the times at which LIBOR is fixed and the format in which it is published. We propose to observe an appropriate notice period before implementing any changes. **Do you agree that eight weeks is an appropriate notice period for implementing changes of this kind? If not, what, in your view, would be an appropriate period?**

11. If our analysis (at paragraphs 35 to 38 of the consultation) is correct, under most existing agreements on market standard terms, the parties could disregard any LIBOR re-fixing published later in the day. **Do you agree with our understanding of market standard terms: in effect, allowing the parties to disregard any re-fixing? Are you aware of any other market standard terms which take a different approach?**

12. **Do you agree that intraday re-fixing would have little impact on counterparties' performance of existing agreements?**

13. In the absence of any indication that re-fixing is likely to be a common occurrence, parties are unlikely to seek to amend existing agreements. **Do you agree that parties to existing agreements are unlikely to amend them to take account of the introduction of re-fixing?**

14. Market standard terms themselves are, however, likely to be revised to reflect the introduction of re-fixing. This would enable market participants to take advantage of the greater accuracy which re-fixing would achieve by adopting the revised standard terms in respect of future market contracts. **Do you agree that market participants would expect to revise market standard terms in order to benefit from more accurate re-fixed interest rates in respect of future contracts?**

15. An orderly transition by the relevant markets would not give rise to any significant problems for market participants. We believe that the Trade Associations and market representative organisations responsible for the standard terms in question will be willing to co-ordinate with one another to achieve this objective. **Do you agree with our assessment that the revision of market standard terms to reflect introduction of intraday re-fixing need not give rise to significant problems in the context of an orderly market transition?**

16. Do you foresee any problems which we have not taken into account?