

Corpsec Hotline

April 25, 2022

LIBOR(ED): TIME TO SET NEW BENCHMARKS!

LIBOR DISCONTINUATION

London Interbank Offer Rate ("LIBOR") was one of the most popular benchmark rates linked with interest rates across the globe. Often the loan products with variable interest rates were linked to LIBOR to determine the final interest rate. However, due to multiple allegations and manipulations surrounding it¹, the Financial Conduct Authority ("FCA"), UK, in a press statement dated March 05, 2021² announced that all London Interbank Offer Rate ("LIBOR") settings will either cease to be provided by any administrator or no longer be representative of (i) all Pound Sterling, Euro, Swiss Franc, and Japanese Yen settings, and the 1-week and 2-month US dollar settings after December 31, 2021; and (ii) in the case of overnight, 1-month, 3-month, 6-month, and 12-month maturities will cease immediately after June 2023. Pursuant to the aforesaid press release by FCA, the Reserve Bank of India ("RBI") had issued multiple advisories and notifications³ for the transition from LIBOR to any other widely accepted Alternative Reference Rate ("ARR").

NEW BENCHMARK

On December 08, 2021, RBI notified the External Commercial Borrowings (ECB) and Trade Credits (TC) Policy – Changes due to LIBOR transition ("ECB LIBOR Notification").⁴ Accordingly, the Master Direction on External Commercial Borrowings, Trade Credits and Structured Obligations as updated on December 10, 2021, reflects the following changes notified under the ECB Notification:

- Redefining Benchmark Rate for foreign currency ("FCY") ECBs and Trade Credits ("TC")s:** Prior to the ECB LIBOR Notification, the benchmark rate pertaining to FCY ECB/TC was pegged to 6-months LIBOR rate of different currencies or any other 6-month interbank interest rate applicable to the currency of borrowing. Now, the same has been updated to "any widely accepted interbank rate or alternative reference rate (ARR) of 6-month tenor, applicable to the currency of borrowing."
- Change in all-in-cost ceiling for new ECBs/ TCs:** As there would be differences in the credit risk and term premia for the loans pegged to LIBOR in comparison with the ARR, the RBI has tried to balance it out by increasing the per annum all-in-cost ceiling for new FCY ECBs and TCs by 50 bps to 500 bps and 300 bps, respectively, over the benchmark rates.
- One Time Adjustment in all-in-cost ceiling for existing ECBs/ TCs:** For similar reasons as stated in (ii) above, the RBI has increased the per annum all-in-cost ceiling for the existing FCY ECBs and TCs by 100 bps to 550 bps and 350 bps, respectively, over the benchmark rates. However, an obligation has been cast on the AD Category-I banks to ensure that any such revision in the ceiling of existing FCY ECBs/TC is only on account of the transition from LIBOR to ARR.

Further, there has been no change in the all-in-cost benchmark or the ceiling for INR ECBs/ TCs and the same continues to be at 450 basis points above the benchmark rate.

RESPONSE BY THE MARKET PLAYERS

Most financial institutions have already started phasing out LIBOR and substituting with alternate benchmarks much before December 31, 2021 deadline. There are several ARR benchmarks, however, till date, none of them have been as widely used as LIBOR. Some of the market leaders are now pegging their interest rates to Secured Overnight Financing Rate ("SOFR") and Sterling Overnight Interbank Average Rate ("SONIA").⁵

IMPACT ON THE FCY ECBs

The way forward for the fresh ECB contracts executed by the financial institution is comparatively simpler, as they will be negotiating the interest rates based on the new ARR, from the very beginning. Whereas existing FCY ECB contracts executed prior to December 31, 2021, pegged to LIBOR and which mature after December 31, 2021, have to be amended by the relevant parties to incorporate the ARR instead of LIBOR.

CONCLUSION

The RBI has taken a very proactive approach by notifying the stakeholders almost 2 (two) years before transitioning from LIBOR thereby providing adequate time to put in place appropriate systems and mechanisms to address this change. There may be some issues that the parties may have to face in terms of adjusting to the new ARR, calculation of interests, reaching out to all the relevant parties for the execution of amendment agreements, etc.

Research Papers

Mergers & Acquisitions

July 11, 2025

New Age of Franchising

June 20, 2025

Life Sciences 2025

June 11, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Reimagining CSR: From Grant Giving to Blended Finance & Outcome Based Funding

June 16, 2025

Courts vs Bankruptcy code: The

However, given the history of LIBOR, systems being in place, and the stance of the stakeholders, the market for ECBs may turn out to be better off without LIBOR.

— Akash Kumar, Harshita Srivastava & Nishchal Joshipura

You can direct your queries or comments to the authors

¹ The State Bank of India, LIBOR TRANSITION COMPENDIUM, available at

https://www.sbi.co.in/documents/16337/16538/241221-SBI-LIBOR_Transition_Compendium_-_Booklet_Digital+-Ver+3-Dec+2021.pdf

² FCA announcement on future cessation and loss of representativeness of the LIBOR benchmarks, dated March 5, 2021, available at

<https://www.fca.org.uk/publication/documents/future-cessation-loss-representativeness-libor-benchmarks.pdf>

³ RBI Press Release, Cessation of LIBOR: Transition arrangements, dated July 08, 2021; RBI Notification on Use of any Alternative reference rate in place of LIBOR for interest payable in respect of export / import transactions, dated September 28, 2021.

⁴ RBI Notification, External Commercial Borrowings (ECB) and Trade Credits (TC) Policy – Changes due to LIBOR transition, notification no. RBI/2021-22/135 A.P. (DIR Series) Circular No. 19, dated December 08, 2021.

⁵ SBI adopts new benchmark rate, drops decades old Libor, available at:

[http://timesofindia.indiatimes.com/articleshow/8100%0262.cms?](http://timesofindia.indiatimes.com/articleshow/8100%0262.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst;)

[utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst;](http://timesofindia.indiatimes.com/articleshow/8100%0262.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst;)

LIBOR set to go and SOFR to replace it as new benchmark: Five questions answered, available at

<https://www.moneycontrol.com/news/business/economy/libor-set-to-go-and-sofr-to-replace-it-as-new-benchmark-five-questions-answered-6624851.html>

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

JSW-Bhushan Saga

June 04, 2025

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025