

# **LIBOR CODE OF CONDUCT**

## **CONTRIBUTING BANKS**

**Issue 2:  
3 February 2014**

**(As approved by the Interim LIBOR Oversight  
Committee,  
Confirmed as Industry Guidance by the FCA, and  
adopted by ICE Benchmark Administration)**

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## **PREFACE**

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|   | 1 | The LIBOR-setting process has been the subject of considerable examination in many jurisdictions. There have been many findings by the relevant authorities on the need to improve the structure and professionalism embedded in the rate-setting process. The regulation of benchmark setting and the introduction of a Code of Conduct for contributing banks are key elements in bringing formalisation and professionalism into the process. |
| Regulated Activities Order, Article 63O and Sch 5 | 2 | Legislation has recently been introduced <sup>1</sup> to regulate benchmark submission and administration. LIBOR-setting specifically falls within this legislation.   |
| ss91-92 FSA 2012                                  | 3 | Knowingly or deliberately making false or misleading statements in relation to benchmark-setting has been made a criminal offence in the circumstances set out in the FSA 2012 <sup>2</sup> .  |
| MAR 8   | 4 | The FCA is the competent authority for the regulation and supervision of benchmarks, and has issued Rules governing benchmark setting by adding a section to its Market Conduct Sourcebook.  |
| MAR 8.3.10 (1) R                                  | 5 | The FCA Rules require, inter alia, that a Benchmark Administrator develop practice standards in a published code which set out the responsibilities for contributing banks in relation to the relevant specified benchmark. This Code of Conduct (the LIBOR Code) sets out practice standards for Contributing banks.  |
|   | 6 | This LIBOR Code is the first version of such a Code, and does not address the arrangements for banks joining and leaving the relevant panel of contributing banks, or arrangements relating to the role and activities of the Oversight Committee. Future editions of the LIBOR Code will include material on these aspects.   |
|   | 7 | The intention of the LIBOR Code is to provide a framework within which contributing banks can operate, and to assist users of LIBOR rates when deciding whether LIBOR is an appropriate rate to use in contracts.  |
|   | 8 | The LIBOR Code is required guidance of ICE Benchmark Administration Limited as LIBOR Administrator under MAR 8.3.10 (1) R. The guidance is FCA-confirmed industry guidance under PS07/16. FCA confirmation   |

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<sup>1</sup> SI 2013/655 - The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013

<sup>2</sup> SI 2013/637 - The Financial Services Act 2012 (Misleading Statements and Impressions) Order 2013

means<sup>3</sup> that the FCA will regard firms following such confirmed guidance as complying with the relevant Handbook rule; but will not treat failure to comply with such guidance as indicating that the firm has breached that rule, as in many cases there will be more than one way to comply.

- 9 The LIBOR Code was prepared by BBA LIBOR Ltd as LIBOR Administrator, and comments and representations were invited on the proposed text from the contributing banks on the LIBOR panel, and other stakeholders. In finalising the LIBOR Code, regard was had to such comments and representations. This LIBOR Code has been adopted by ICE Benchmark Administration Limited and will be developed over time through its Oversight Committee and with wide-ranging practitioner and industry input.

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<sup>3</sup> See PS07/16, paragraph 2.5

## **GLOSSARY OF TERMS**

Term/expression	Meaning
Benchmark Administrator ( ICE Benchmark Administration Limited)	An entity carrying out the regulated activity of administering a specified benchmark.
Benchmark manager (CF40)	A natural person approved by the FCA to exercise the controlled function relating to the oversight of a firm's compliance with MAR 8.2 as required by MAR 8.2.3R..
Benchmark submission	The information or expression of opinion provided to a benchmark administrator for the purposes of determining a specified benchmark.
Compliance function	A control function independent of the business area within which the LIBOR submission process is based.
Contributing bank	A bank carrying out the regulated activity of providing information in relation to a specified benchmark. [In its Rules, the FCA refers to this as a 'benchmark submitter'.]
Governance group	A committee, working party or other group of senior individuals within a contributing bank charged with oversight of the contributing bank's benchmark submission process.
LIBOR Administrator's Operational Group	A group which meets regularly with the Administrator to discuss operational issues concerning LIBOR. Representatives of each contributing bank are included in this Group.
MAR	The FCA's Market Conduct Sourcebook.
Reviewer	A natural person within a contributing bank who supervises the preparation (including by undertaking reviews of submissions, whether before submission or after submission has been made) of a benchmark submission on behalf of the bank. This person may also be the Benchmark manager (CF40).
Regulated Activities Order	The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 [SI 2001/544 as amended by SI 2009/1389 and SI2013/655]

Submitter	A natural person within a contributing bank who prepares a benchmark submission on behalf of the bank.
LIBOR Oversight Committee	A Committee of the LIBOR Administrator, responsible for overseeing the activities around LIBOR. The Committee must include representatives of Contributing banks, market infrastructure providers, users of LIBOR and beyond the interim phase will include at least two independent non-executive directors.

## **CODE OF CONDUCT**

### **1. Governance arrangements**

MAR 8.2.1R      1.1      A contributing bank must establish and maintain adequate and effective organisational and governance arrangements for the process of making benchmark submissions.

#### *Governance and structure*

1.2      Governance arrangements should be within the context of a structure that reflects appropriate senior management involvement in, and awareness of, the LIBOR submission process. The overall approach, policies and procedures should cover:

- Reporting structure and operating procedures
- Oversight and monitoring arrangements
- Escalation and reporting procedures
- Documenting business continuity arrangements for making LIBOR submissions

1.3      The contributing bank should charge a governance group of senior individuals with responsibility for the oversight of the submission process and for receiving reports on post submission reviews. In some contributing banks this may be a formally established group, whilst in others this oversight may be exercised within the bank's existing accountability framework.

MAR 8.2.2 G (1)  
SUP10.7A.11  
APER 2.1.2 P      1.4      The FCA has introduced Controlled Function 40 (CF40), the Benchmark submission function (benchmark manager). Each contributing bank must nominate an individual to this significant influence function. In some circumstances, a contributing bank may decide that it should appoint more than one individual to this position. These individuals will be responsible for overseeing the LIBOR submission process, and will be subject to the FCA Principles for Individuals. The benchmark manager (CF40) will also be the primary point of contact for the LIBOR Administrator.

MAR 8.2.4 G      1.5      The Benchmark manager (CF40) is expected to be based in the United Kingdom.

- 1.6 The Benchmark manager (CF40), or a delegate, will be expected to attend the LIBOR Administrator's Operational Group meetings regularly.
- MAR 8.2.2 G (2), 1.7 There should be appropriate oversight of the submission process by the compliance function of the firm to ensure compliance with the contributing bank's obligations under the provisions of MAR 8. There should also be periodic internal audit reviews.
- (3)
- 1.8 In respect of the LIBOR submission process, the role of the compliance function should include:
- confirming the incorporation of the LIBOR activity and oversight of that activity into the contributing bank's existing policies, such as those covering Conflicts of Interest and Whistleblowing;
  - incorporating appropriate oversight activity into the annual compliance function plans;
  - incorporating the oversight activity into the contributing bank's compliance policies and procedures and keeping this material up-to-date;
  - procedures for reporting findings.

*Designation of individuals*

- 1.9 Each person directly involved in the submission process should be formally designated and documented as such within the contributing bank. The designation and documentation should include the person's name, role and reporting line, as well as a detailed job description covering the involvement in the submission process.
- 1.10 At a minimum, this designation and documentation should include the following persons:
- The individual (and alternate) ultimately accountable for the process of generating and submitting daily LIBOR submissions. This will be the benchmark manager (CF40).
  - Submitters and reviewers (and their alternates).
  - An individual within the contributing bank's compliance function as the point of contact for covering the submission process.



*Policies and systems*

- 1.11 A contributing bank should create, implement and enforce written policies and procedures designed to ensure the LIBOR Code is implemented and systematically applied within the bank so as to ensure the integrity of its LIBOR submissions.
- 1.12 The contributing bank's internal compliance function must be able to access policies covering the LIBOR submission process. Policies should be made available, on request, to the LIBOR Administrator and the FCA.
- 1.13 All policies should be reviewed at least annually, and updated as necessary, and must reflect changes in the LIBOR Code.

## 2. Staff training and awareness

### *Experience and training*

- 2.1 All submitters and reviewers should have relevant experience in the market for the LIBOR benchmark for which they are making submissions, or in a comparable market. The level of experience required to be demonstrated should be appropriate to the responsibilities of the function performed, in the context of the depth of the market concerned.
- MAR 8.2.3 R 2.2 The Benchmark manager (CF40) must have a sufficient level of authority and access to resources and information to enable him/her to carry out his/her responsibility, in line with the provisions of the LIBOR Code and with regulatory expectations.
- 2.3 All records relevant to the LIBOR submission process should be available to the Benchmark manager (CF40).
- 2.4 All submitters and reviewers should receive training on responsibilities, processes, systems and controls associated with setting LIBOR. Training should include at a minimum:
- The LIBOR Code.
  - Internal LIBOR-setting related policies and procedures.
  - Inputs that should be taken into account when determining submissions.
  - The use of expert judgment, within the framework of submission guidelines.
  - The impropriety of attempting to influence the determination of submissions, and the need to report any such attempts that they become aware of.
  - The importance of conducting all business related to LIBOR submissions on recorded telephone and electronic communication systems and not on personal telephones or other personal electronic devices.
  - The employment and other potential consequences if employees act unlawfully or improperly in connection with the contributing bank's submissions or the process for determining submissions.

- 2.5 Completion of training, by individual, should be documented. Training should be provided promptly to new submitters and reviewers. For all submitters and reviewers training should be refreshed at least annually and whenever there are material changes to the LIBOR Code or applicable regulatory requirements.
- 2.6 All traders who primarily deal in products that reference LIBOR should receive training to ensure familiarity with the responsibilities, systems and controls associated with being a contributing bank. The training should address the following topics:
- The impropriety of attempting to influence the determination of submissions, and the need to report any such attempts that they become aware of.
  - Policies and procedures related to communication with submitters and reviewers.
  - The requirement to conduct business related to derivatives products that reference LIBOR on recorded telephone and electronic communications systems, and not on personal devices or systems.
  - The employment and other potential consequences if employees act unlawfully or improperly in connection with the contributing bank's submissions or the process for determining submissions.
- 2.7 Completion of training, by individual, should be documented. Training should be refreshed at least annually and whenever there are material changes to the LIBOR Code or applicable regulatory requirements. Where such changes to the LIBOR Code or regulation are relevant to traders, they should be communicated to traders in a timely manner.
- 2.8 Intentional non-compliance with internal policies and procedures implementing the LIBOR Code may be a disciplinary matter, and lead to staff being subject to the contributing bank's existing staff disciplinary procedures, including the application of 'malus' clauses.
- s91, FSA 2012      2.9 Knowingly or deliberately making false or misleading statements in relation to benchmark-setting has been made a criminal offence in the circumstances set out in the FSA 2012<sup>4</sup>. The criminal sanction, under the Financial Services Act 2012, is a prison term of up to seven years, and/or a fine.

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<sup>4</sup>SI 2013/637 - The Financial Services Act 2012 (Misleading Statements and Impressions) Order 2013

### 3. Submission methodology

- 3.1 Contributing banks are asked to base their LIBOR submissions on a response to the question:

***“At what rate could you borrow funds, were you to do so by asking for and then accepting inter-bank offers in a reasonable market size just prior to 11 am?”***

- 3.2 The Annex sets out the steps that should be covered by the submitter’s methodology and reporting arrangements.

- 3.3 Reliance on the daily publication of LIBOR rates in all currencies and tenors is built into the global financial infrastructure. Indeed, since 2 April 2013 it has been a regulatory requirement for the LIBOR Administrator to have regard to the continuity of the rate.

- 3.4 Contributing banks are therefore asked to submit daily rates even during periods of market turmoil and inactivity, when inter-bank offers are absent. In a crisis situation where the market is dislocated, it is possible that there could be little or no trade data for an extended period and therefore little or no opportunity for submitters to undertake price discovery in some market segments.

- 3.5 In the absence of observed transactions in some parts of the interbank market, LIBOR submissions will in many cases be based on expert judgement, augmented where possible by observations from transactions and activity in related markets.

- MAR 8.2.5R 3.6 A contributing bank must ensure that its LIBOR submissions are determined using an effective methodology to establish the benchmark submission on the basis of objective criteria and relevant information. A contributing bank must also review this methodology as and when market circumstances require, but at least every quarter, to ensure that its LIBOR submissions remain credible and robust at all times.

- MAR 8.2.6 G 3.7 An effective methodology for determining LIBOR submissions in addition to quantitative criteria may include the use of qualitative criteria such as the use of expert judgement of the submitter.

3.8 Such a methodology should be based on:

- adherence to the LIBOR definition (as set out in paragraph 3.1) and the LIBOR Code
- a robust governance and operating framework;
- the employment of appropriately experienced staff as submitters and reviewers; and submitters and reviewers exercising expert judgement in a consistent manner.
- processes designed to identify manifest error on LIBOR submissions prior to submission to the LIBOR Administrator.

3.9 As part of their existing disaster recovery and business continuity systems and controls, contributing banks should establish and maintain the necessary arrangements to ensure that consistent and timely electronic delivery of LIBOR submissions is possible without material interruption due to human or technical failure. In particular the bank should have:

- Controls that will help prevent system and process failures, or identify them to rectify problems promptly.
- Arrangements for the continuity of submissions in the event that a significant process or system becomes unavailable or is destroyed.
- Arrangements for the recording and capture of electronic communications from a site used for disaster recovery and/or business continuity purposes.

3.10 Contributing banks must be in a position to lodge their submissions with the LIBOR Administrator by 11.10am at the latest each business day. Late submissions will be treated by the LIBOR Administrator as errors, and frequent offenders will be reported to the Oversight Committee.

#### 4. Managing conflicts of interest

- |             |   |
|-------------|---|
| MAR 8.2.7R  | <p>4.1 A contributing bank must maintain and operate effective organisational and administrative arrangements to enable it to identify and manage any conflicts of interest that may arise from the process of making benchmark submissions.</p> <p>4.2 There is an inherent conflict of interest arising from the combination of roles of LIBOR setting and the potential profits from trading positions in instruments related to LIBOR, both internally and externally. Contributing banks may, from time to time, find themselves in a position where other potential conflicts of interest may arise. They should therefore remain vigilant in identifying new potential conflicts arising from, for example, changes in the business structure and/or responsibilities, and in the development of new products.</p> <p>4.3 All contributing banks should already have in place ethical policies and escalation procedures to address conflicts of interest. Contributing banks should review their existing policies and procedures to ensure that they are sufficiently comprehensive to address conflicts likely to arise in the LIBOR setting process.</p> |
| MAR 8.2.8 G | <p>4.4 In order to identify and manage conflicts of interest, a contributing bank should:</p> <ul style="list-style-type: none"> <li>▪ Establish, implement and maintain a conflicts of interest policy which             <ul style="list-style-type: none"> <li>○ Identifies the circumstances that constitute or may give rise to a conflict of interest arising from its benchmark submissions or the process of gathering information in order to make benchmark submissions; and</li> <li>○ Sets out the approach to managing such conflicts.</li> </ul> </li> <li>▪ Establish effective controls to manage conflicts of interest between the parts of the business responsible for submissions and those parts of the business who may use or have an interest in the benchmark rate; and</li> <li>▪ Establish effective measures to prevent or limit any person from exercising inappropriate influence over submissions.</li> </ul>   |

- 4.5 All submitters and reviewers should be located within the function responsible for the contributing bank's liquidity and liability management. These individuals should not have parallel responsibility for any derivatives trading other than that associated with the contributing bank's liquidity and liability management.
- 4.6 In respect of situations where potential conflicts of interest with submissions may occur, such as where submitters or reviewers hold positions in the market that are sensitive to LIBOR, contributing banks should consider systematically identifying those activities which are sensitive to such LIBOR rates.
- 4.7 The activities referred to in paragraph 4.6 need not include LIBOR-related exposures where the interest rate exposure is not actively managed or where it is not material.
- 4.8 The internal controls and procedures developed and implemented to mitigate all identified actual or potential conflicts of interests should be documented and monitored to demonstrate their effectiveness. Such internal controls and procedures should include, but not be limited to:
- Requiring submitters and reviewers:
    - Not to disclose (subject to paragraph 4.12) rates which will be submitted in the future or have been submitted to the LIBOR Administrator but not yet published to any external individual or internal individual
    - Not to disclose information influencing a submitter's specific submission that is not openly available to other market participants
    - Not to be physically located in such proximity to traders who primarily deal in derivatives products that reference the LIBOR rates to which the contributing bank makes submissions such that they can hear each other
  - Requiring individuals not involved in the LIBOR-setting process:
    - Not to contact submitters and reviewers to attempt to influence, or inappropriately inform, the contributing bank's submissions for any reason, including for the benefit of any derivatives trading positions
    - Not to contact submitters and reviewers to seek information on the contributing bank's submissions prior to their submission to the LIBOR Administrator.

- 4.9 Communication within the group of submitters and reviewers responsible for submissions need not be restricted. However, all communication within that group relating to submissions which is not face to face should be conducted on the contributing bank's recorded telephone and electronic communication systems and not on personal telephones or other personal electronic devices. Communication relating to submissions should not be conducted in a manner that prevents the contributing bank from recording such communications.
- 4.10 Submitters and reviewers responsible for submissions should treat any non-public LIBOR-related information as sensitive and take appropriate precautions to ensure the confidentiality of such information.
- 4.11 Contributing banks should maintain a "whistleblowing" policy so that members of staff have a means by which to raise concerns regarding unlawful or inappropriate practices related to LIBOR, for example confidentially to the compliance function.
- 4.12 For the avoidance of doubt, nothing in this LIBOR Code shall prevent the disclosure of rates which have been submitted to the LIBOR Administrator and used in the calculation of a published LIBOR rate to any external individual or internal individual who is not formally designated as being involved in the submission process so long as (i) they have a commercially reasonable business need to know, or (ii) are a customer of the contributing bank entering into a transaction with it priced by reference to the submitted rate, appropriate arrangements for preserving confidentiality being in place.

*Remuneration, incentives and discipline*

- 4.13 Adherence to the LIBOR Code should be an integral part of the performance assessment of submitters and reviewers and others within the LIBOR-setting process.
- 4.14 The remuneration of all submitters and reviewers should not be based in whole or in part on any economic target that could incentivise submitters directly or indirectly to modify LIBOR submissions.



- 4.15 Under the FCA Remuneration Code, compensation agreements with staff identified as 'Code Staff' (under the Remuneration Code) should contain 'malus' clauses which give the contributing bank the option to reduce all or part of bonuses awarded, and where payment has been deferred. Where any such Code Staff have been found to have intentionally breached internal policies and procedures implementing the LIBOR Code or the rules on which the LIBOR Code is based, in particular by knowingly or deliberately manipulating LIBOR submissions, or by encouraging others to do so, such clauses should be applicable.

## 5. Suspicions

- MAR 8.2.9R
- 5.1 A contributing bank which suspects that any person is
- manipulating or has manipulated
  - attempting to, or has attempted to, manipulate
  - colluding in, or had colluded in, the manipulation or attempted manipulation
- of LIBOR, must notify the FCA without delay.
- 5.2 Submitters and reviewers are expected to report suspicious behaviour or events which they come across in the course of their work, where, objectively, reasonable grounds exist for such knowledge or suspicion.
- 5.3 Meeting this obligation will require a contributing bank to have robust rules and escalation procedures which require submitters and reviewers to report any suspicions that they come across to the compliance function and, as appropriate, to the Benchmark manager (CF40).
- 5.4 Any behaviour and/or events reported to the compliance function and/or to the Benchmark manager (CF40) should be reviewed by them in a timely manner to determine whether there are reasonable grounds for suspicion and therefore an obligation to make a report to the LIBOR Administrator and the FCA.

## 6. Record keeping

- MAR 8.2.10 R (1)      6.1      A contributing bank must keep for five years:
- Records of its LIBOR submissions, as well as all information used by it to enable it to make a LIBOR submission;
  - Reports on the key sensitivities the contributing bank may have regarding the specified benchmark it is submitting to, including (but not limited to) the submitter's exposure to instruments which may be affected by changes in the specified benchmark.
- 6.2      The records on the key sensitivities referred to in paragraph 6.1 should reflect trading positions, where they can be identified in the London office, and need not include LIBOR-related exposures where the interest rate exposure is not actively managed or is not material.
- 6.3      A contributing bank should also maintain records relating to:
- The process surrounding rate determination and subsequent sign-off and review. This should include the basis for the use of judgement;
  - Communications (which may be recorded in electronic format) between the submitters and others in determining submissions, such as internal and external traders and brokers;
  - Interaction with the LIBOR Administrator or its calculation agent;
  - Submission queries and their respective outcomes;
  - Complaints and approaches from whistleblowers; and
  - The findings of compliance reviews and internal and external audits.
- MAR 8.2.10 R (2), (3)      6.4      The contributing bank must
- (a) provide to the relevant benchmark administrator all information used to enable it to make a benchmark submission on a daily basis, and
  - (b) provide on a quarterly basis aggregate information which will allow the benchmark administrator to produce statistics relevant to the specified benchmark as required by MAR 8.3.12R.

- MAR 8.2.11 G
- 6.5 The information provided to the LIBOR Administrator in relation to paragraph 6.4(a) should comprise
- An explanation of the rationale and methodology used to establish the submission; and
  - If applicable, an explanation of how any quantitative and qualitative criteria were used to establish the submission.
- 6.6 Other information used in the submission process should be able to be provided, on request, to the LIBOR Administrator and the FCA.
- 6.7 Contributing banks should ensure that appropriate records are kept of its business and internal organisation, which must be sufficient to enable the FCA, LIBOR Administrator or external auditor to monitor the contributing bank's compliance with the requirements under the LIBOR code and the contributing bank's internal policies and procedures.
- 6.8 Records should be kept in a medium that allows the storage of information in a way accessible for future reference by the regulator or the LIBOR Administrator. Storage arrangements should also enable the identification of any corrections, or other amendments made to submissions to be easily ascertained. Trade level data should be kept in a format which can be converted into Microsoft Excel.

## 7. Compliance and internal audit

### *Compliance*

- MAR 8.2.2(2) G
- 7.1 The function responsible for monitoring compliance of LIBOR-setting related activities with the LIBOR Code and the contributing bank's internal policies and procedures should be independent both of the individuals responsible for LIBOR submissions and of the businesses with income statement sensitivity to LIBOR. Although the compliance function might primarily report through to the head of the [investment bank], it should also have a dotted reporting line to an independent Group function.
- 7.2 Examples of the key duties of a compliance function related to LIBOR submissions include:
- Advising the relevant persons responsible for carrying out LIBOR-setting related activities in complying with the contributing bank's obligations under its internal policies and the LIBOR Code.
  - Involvement in gathering and investigating any complaints concerning the accuracy or integrity of the contributing bank's submission, including the logging, review and follow-up of all complaints.
  - Regularly reviewing the contributing bank's interactions with the LIBOR Administrator, including the number and result of requests for further information and the number of late submissions.
  - Regularly reviewing reports identifying exceptions and breaches of internal procedures implementing the LIBOR Code.
  - Testing a sample of records of voice communications between those involved in the LIBOR submission process and those outside of this process.
  - Issuing recommendations based on the result of work carried out.
  - Verifying compliance with those recommendations.
  - Recording and escalating its findings.
- 7.3 The compliance function should maintain a physical presence, on at least a monthly basis, on the floor of the LIBOR-setting team and/or the floor of traders in derivatives that reference LIBOR rates to which the contributing bank makes submissions.

7.4 In order to enable the compliance function to discharge its responsibilities properly and independently:

- The function should have the necessary authority, resources, expertise and access to all relevant information.
- A compliance officer (with alternate) should be designated as the point of contact for all LIBOR-setting related activities within the contributing bank.
- The designated compliance officer should not be involved in the performance of services or activities they monitor.
- The method of determining the remuneration of the compliance officer must not compromise their objectivity and must not be likely to do so.

*Internal audit*

MAR 8.2.2(3) G

7.5 A contributing bank should conduct periodic internal audits of reasonable, random samples of its submissions, the factors and all other evidence documenting the basis for such submissions and communications of the submitters in order to verify the integrity and reliability of the process for determining submissions.

7.6 Confirmation that internal audit reviews of the LIBOR submission process have taken place, and a summary of the findings and actions, should be sent to the compliance function, and should be available, on request, to the LIBOR Administrator and the FCA.

7.7 The governance group of the contributing bank should be notified of any significant issues which are identified by the internal audit, for decision on the appropriate actions to be taken and whether these issues should be reported to the LIBOR Administrator.

## 8. Auditor reporting

MAR 8.2.12R	8.1	A contributing bank must appoint an independent auditor to report to the FCA on the bank's compliance with the relevant requirements of the FCA Rules, on a regular basis.
	8.2	Such a report, which will be commissioned from an external firm, will focus on the contributing bank's systems and control framework for making LIBOR submissions, and its compliance with the contributing bank's obligations under MAR 8.
MAR 8.2.13 G (1)	8.3	The FCA expects an auditor's report to be issued annually, although the FCA may agree a longer period depending on the contributing bank's particular circumstances, including the nature and scale of its engagement in the specified benchmark and the internal framework for monitoring compliance with the requirements of MAR 8.
MAR 8.2.13 G (2)	8.4	A contributing bank which proposes to appoint an auditor to report to the FCA on a less frequent than annual basis should notify the FCA explaining why it believes it would be appropriate to do so.

**ANNEX****SUBMISSION METHODOLOGY***Methodology framework*

- 1 The methodology framework should start from an information base that reflects input from a range of transaction types. In exercising their expert judgement, submitters will use their experience of the inter-bank deposit market and its relationships with other markets to decide whether the information base should be further adjusted to arrive at the submission that should be made on behalf of the contributing bank.
- 2 The submitter's proposal should be subject to appropriate review, and, where this is carried out pre-submission, the submission amended as necessary before being made to the LIBOR Administrator.
- 3 The framework should include a post submission review process, both in respect of each day's submission and more generally of the contributing bank's experience of its submission regime.
- 4 A contributing bank should maintain records as required under section 6 of the LIBOR Code, detailing all information used to enable it to make a LIBOR submission, and the processes surrounding rate determination and subsequent sign-off.

*Range of transaction types*

- 5 LIBOR submissions should be determined based upon a range of relevant transaction types. Greatest emphasis should be placed on transactions undertaken by the contributing bank.
- 6 The range of transaction types is:
  - (a) The contributing bank's transactions in:
    - The unsecured inter-bank deposit market;
    - Other unsecured deposit markets, such as certificates of deposit and commercial paper; and
    - Other related markets, such as overnight index swaps, repurchase agreements, foreign exchange



forwards, interest rate futures and options and central bank operations.

(b) The contributing bank's observations of third party transactions in the same markets and using the same range of transactions.

(c) Indicative quotes by third parties offered to contributing banks in the same markets.

- 7 In the absence of transaction data<sup>5</sup> relating to a specific LIBOR benchmark, expert judgement alone, in adherence to the LIBOR definition, should be used to determine a submission.

#### *Adjustments*

- 8 Submissions will also reflect adjustments in consideration of other variables, which in the submitter's expert judgement are necessary to ensure the submission is representative of and consistent with the market for inter-bank deposits. In particular, the information obtained above may be adjusted in relation to the following considerations:

- Proximity of transactions to time of submission and the impact of market events between transaction and submission time;
- Techniques for interpolation or extrapolation from available data;
- Changes in relative credit standing, access to funds, and borrowing or lending requirements of the contributing banks or other market participants; and
- Non-representative transactions, such as non-competitive trades.

There may be other factors and considerations that a contributing bank believes should be the subject of an adjustment, in particular the implications of the market in question being unusually stressed.

- 9 Submissions should not have regard to trading positions of submitters and reviewers in instruments which reference a LIBOR rate to which the contributing bank makes submissions, nor the broader positions of the submitter or reviewer's business unit, or, to the extent known, other positions within the contributing bank.

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<sup>5</sup> It is recognised that at present (April 2013) inter-bank activity in this market is very low, and so contributing banks will have a limited number of actual transactions on which to base their submissions.

### *Validation processes*

- 10 The extent to which a proposed submission is subject to a detailed review, as opposed to a check or reconciliation for manifest error, before a submission is made, is a matter for the contributing bank to decide, and will be influenced by the timings within its preparation process. Where a detailed review does not take place before submission, such a review should take place promptly following submission.
- 11 Once a submission has been made, there should be a mechanism for checking that the rates that were submitted to the LIBOR Administrator (or to its collection agent) agree with those intended to be submitted, in order to identify any IT-related or transcription errors.
- 12 Where a full review is carried out before submission, errors requiring correction, or further adjustments considered necessary, are able to be incorporated before making the submission. Where a full review takes place post submission, any errors requiring correction, or further adjustments that should have been made, should be reported to the Benchmark manager (CF40) for decision as to their severity, and whether they should be reported to the LIBOR Administrator.
- 13 The review of submissions should challenge any of the data and related commentary, including pointing out errors, inaccuracies, omissions or anything that may appear unusual.
- 14 If the reviewer does not agree that the submitted rate is able to be justified by the factors, adjustments, considerations and explanations given by the submitter, this should be documented and recorded and escalated to the compliance function and to the Benchmark manager (CF40) (if different from the reviewer) and, if he/she considers it appropriate, the appropriate internal governance group.

### *Errors in submissions*

- 15 There should be a procedure for the immediate carrying out of an impact assessment of any breach of the LIBOR Code or of internal procedures that makes a submission unreasonable, to calculate the effect on the submission, to be provided to the submitter and to the compliance function.
- 16 Breaches that make the submission unreasonable should be escalated to the compliance function, who will investigate the exception, informing and involving the Benchmark manager (CF40), the governance group and the LIBOR Administrator. The LIBOR Administrator will record all details of reported

errors and if a contributing bank persistently makes errors (more than three errors per bank over a one year period), it will be referred to the LIBOR Administrator's Oversight Committee.

- 17 As stated in paragraph 3.10 of the LIBOR Code, late lodgement of submissions will be treated by the LIBOR Administrator as errors. All errors will be reported to the Oversight Committee. In the event of a late submission or error, the LIBOR Administrator will write a letter to the contributing bank's Benchmark manager (CF40). A bank will be reported to the FCA in the event that: (a) three or more letters regarding errors (other than late submissions) are sent to a bank's LIBOR Administrator within a six month period; or (b) six or more letters regarding late submissions are sent to a bank's LIBOR Administrator within a six month period. The Oversight Committee may, at their discretion, request the LIBOR administrator to report a bank which has received fewer letters regarding errors or late submissions, having reviewed the statistics.

*Use of expert judgement*

- 18 Submitters will have regard to a range of factors and considerations when using expert judgement to arrive at the proposed submission. In respect of any given currency/time period these factors and considerations include:
- The 'reasonable market size'
  - Known transactions of the contributing bank
  - Known transactions of third parties observed by the submitter
  - Known offers from third parties observed by the submitter
- 19 Where within a submission there is a qualitative assessment of market level, this should reflect the submitter's own honestly held view of the level of the relevant market. The submitter will not seek to influence inappropriately, directly or indirectly, any factors, considerations or adjustments which are used in determining submissions.
- 20 Where a submission reflects actionable quotes or trades, these should be based only on the submitter's view of the economic rationale for a potential trade itself, and not on other factors such as the impact of a benchmark level on the value of the contributing bank or individual's other trades or risk positions.