

(Provisional Translation)

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Dear the representatives of each association,

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(Official seals are omitted)

LIBOR Transition based on the *Final Report on the Results of the Public Consultation on the Treatment of Tough Legacy Contracts in Japan* published by the Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks

The publication of London Interbank Offered Rate (LIBOR) based on the current methodology referencing rates provided by panel banks (panel-based LIBOR) will cease at the end of this year except for certain US dollar LIBOR settings.

In addition, the UK Financial Conduct Authority (FCA) announced that it decided to use its power to require ICE Benchmark Administration to publish the 1-month, 3-month and 6-month Japanese yen (JPY) LIBOR settings on a synthetic basis (synthetic LIBOR) for one additional year after the end of this year, on September 29, 2021.

In Japan, the Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks has discussed the way to use synthetic yen LIBOR on the assumption that it will be published. The attached statement is the views of the Financial Services Agency (FSA) and Bank of Japan (BOJ) on this issue, and it is requested to provide this to your member financial institutions.

1. Progress of transition away from JPY LIBOR in Japan

In principle, either active conversion to alternative reference rates or insertion of fallback language is necessary for legacy contracts referencing LIBOR in preparation for the cessation of LIBOR. The FSA and BOJ have expressed this view in the *Response to the announcement on the end date of LIBOR panel publication and the announcement on the intention to consult on the publication of synthetic yen LIBOR* (Joint Statement) on March 8, 2021, and on various occasions.

In addition, the FSA and BOJ have stressed that it is important that each financial institution proceeds to explain to its customers and amends contracts to progress either active conversion or insertion of fallback language as soon as practicable, in conformity with the *Roadmap to Prepare for the Discontinuation of Japanese Yen LIBOR* (Roadmap) published by the Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks in August 2020 (partially revised in April 2021) as well as the transition plan of each financial institution.¹

According to the recent survey on the progress of transition away from JPY LIBOR as of the end of September 2021, conducted by the FSA and BOJ to major financial institutions in Japan, the progress has generally been made, and the respondents did not report legacy contracts that cannot feasibly be transitioned away from JPY LIBOR (i.e. so-called tough legacy) and contracts that are expected to use synthetic yen LIBOR, at the time of the response. The Cross-Industry Committee also expressed its view that "at this moment, the Committee is yet to confirm any specific contracts and instruments that cannot practicably be transitioned away from JPY LIBOR by actions or agreements between the contracting parties themselves" in the *Public Consultation on the Treatment of Tough Legacy Contracts in Japan* published on September 28, 2021.

Nonetheless, it is still necessary for each financial institution to take further actions to transition in the remaining period, as not all existing contracts requiring LIBOR transition have been completed and there are still risks and uncertainties that transition will not be completed by the end of this year.

2. The public consultation by the Cross-Industry Committee

In the *Joint Statement*, the FSA and BOJ expressed their view that, in order to accomplish an orderly transition away from JPY LIBOR by the end of December 2021 when the publication of panel-based JPY LIBOR will be ceased, financial institutions should not rely on the use of synthetic yen LIBOR, and that synthetic yen LIBOR should be considered as a "safety net" that can be used only for tough legacy contracts

¹ With regard to contracts referencing LIBOR for currencies other than JPY, it is requested that each financial institution to take actions in accordance with the timelines and the guidance set out by home authorities and/or national working groups in the relevant currencies. (See footnote 1 of the *Joint Statement*, and *Preparing for the transition away from USD, GBP, CHF, and EUR LIBOR*, published on June 17, 2021.)

after they explain to their customers and negotiate for amending contracts to progress either active conversion or insertion of fallback language.

The Cross-Industry Committee published the *Public Consultation on the Treatment of Tough Legacy Contracts in Japan* on September 28, 2021 taking into account the discussions presented in the *Joint Statement*, and subsequently published the *Final Report on the Results of the Public Consultation on the Treatment of Tough Legacy Contracts in Japan (Results of Consultation)* on November 19, 2021. While it is important for market participants to continue to proceed with preparations for transition in line with the Roadmap, the *Results of Consultation* indicated the conditions of contracts that can be considered the use of synthetic yen LIBOR and the points to note when using synthetic yen LIBOR. The FSA and BOJ consider that the *Results of the Consultation* is consistent with the purpose of the *Joint Statement* and thus support the results.

The *Results of Consultation* is a compilation of opinions from a wide range of market participants and can be regarded as a "market standard." The FSA and BOJ expect that financial institutions will act in accordance with the *Results of Consultation* if they intend to use synthetic yen LIBOR.

Given the limited time left before the end of December 2021, when the publication of panel-based JPY LIBOR will be ceased, contracting parties should pay attention to the points noted in the *Results of Consultation* as well as conduct risks, in cases where they decide to use synthetic yen LIBOR for contracts that cannot feasibly be transitioned away from JPY LIBOR after their efforts to transition away.

3. Response of the FSA and BOJ

The FSA and BOJ will continue to monitor the progress of existing contracts referencing JPY LIBOR for which transition has not yet been completed, including conducting a third survey on the use of LIBOR as of the end of December 2021, and require financial institutions to take necessary actions in light of the situation.

From January 2022, the FSA and BOJ will monitor financial institutions on their use of synthetic yen LIBOR and their engagement with their customers when using synthetic yen LIBOR as necessary. In particular, the FSA and BOJ will monitor the reasons and background, and the use of the points to note when synthetic yen LIBOR is used, as well as the progress of transition from synthetic yen LIBOR to alternative reference rates.

Based on the monitoring results, the FSA will consider taking supervisory measures as deemed appropriate.

It should be noted that the *Results of Consultation* will be referenced for supervision and monitoring, on the premise that they are regarded as a market standard.