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Wednesday, June 12, 2019

Via Email

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

The Secretary
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RE: CSA Proposed NI 25-102 - Designated Benchmarks and Benchmark Administrators

The Investment Industry Association of Canada ("IIAC" or "Association") appreciates the opportunity to provide comments on the Canadian Securities Administrators (CSA) Proposed National Instrument 25-102 - *Designated Benchmarks and Benchmark Administrators* (the Proposal) that will provide guidelines for benchmarks, administrators of these benchmarks and for users and contributors of these benchmarks.

A working group comprised of IIAC Members active in fixed income markets assisted in our review of the Proposal and the drafting of this response.

Position Summary and IIAC Recommendations

General Comments

We are generally supportive of the Proposal recognizing the importance of having financial benchmarks that are viewed as being free of conflicts of interest and that accurately capture arm's length market rates. While the Proposal largely draws from the European Union's (EU) benchmark regulations we believe that opportunities exist to better calibrate the Proposal for the uniqueness of the Canadian market without detracting from the CSA's objective of having Canada's framework recognized as "equivalent" under the EU's "third country regime" benchmark regulation.

Benchmarks Covered by the Proposal

The CSA only plans to designate CDOR and CORRA, and its administrator Refinitiv Benchmark Services Limited (RBSL) under the Proposal. One of the specific questions raised by the CSA is whether there are any benchmarks other than CDOR and CORRA, or benchmark administrators other than RBSL, that should be designated under the Proposal. We believe that only benchmarks that are material to the functioning of Canada's financial markets, and the bodies that administer them, be designated under the Proposal. The CSA has quantified the importance of CDOR and CORRA by providing statistics on the notional value of financial instruments pegged to these two benchmarks. In our view, no current benchmarks other than CDOR and CORRA warrant designation.

The CSA should, however, provide some clarification on the rules for adding or removing a benchmark, and its administrator, from NI 25-102. For example, will measures other than notional value of financial contracts outstanding be factored into the CSA decision?

IIAC Members also point out that the structure of both CDOR and CORRA should be taken into consideration regarding the application of Proposal. Specifically, CORRA is based on transaction data from trades in domestic repo markets. CDOR, unlike other interbank offered rates, is a committed rate at which benchmark contributors lend funds to corporate borrows with existing credit facilities. The reliance of data anchored by observable transactions (CORRA), or committed quotes (CDOR), are recognized by IOSCO as being of higher quality than benchmarks relying on indicative quotes[1].

[1] Principles for Financial Benchmarks Final Report, IOSCO, July 2013

The structure of CDOR and CORRA, therefore, could warrant a less onerous application of the Proposal on contributors, administrator and oversight committee.

Record Retention

IIAC Members expressed concern around the Proposal's requirement for benchmark contributors to retain records for 7 years. This is considerably longer than the requirement under the EU BMR (3-5 years). The CSA fails to provide its rationale for the 7-year period. Given the structure of CDOR and CORRA outlined previously, we believe it appropriate to reduce the record retention period to align with the EU BMR.

Expert Judgement and Physical Separation of data Contributors

IIAC Members also request clarification around what constitutes expert judgement (Section 25(3)(b) of the Proposal) and when expert judgement should be used. With respect to CDOR, our Members view is that expert judgement can based on several factors including; i) Market data - T-Bill rates and OIS rates ii) economic factors and iii) executional data iv) dealers' inventories and v) other factors.

IIAC also question's the Proposals requirement for the physical separation of individuals responsible for the benchmark rate submission and that such individuals be located in an area that is "secure". In theory we can understand the rationale behind this CSA proposal but it in practice could be difficult and work contrary to fostering expert judgement. Individuals responsible for the contribution of benchmarks have a need for market views that can feed into the expert judgement of the contributor. The CSA should also understand that the individuals responsible for the rate submission are also carrying out many other activities on behalf of their firm which may require them to be physically located near select peers or departmental functions. Individuals on the trading floor, therefore, should not be precluded from having responsibility for submitting their firm's contribution to the benchmark.

Withdraw of a Benchmark

The IIAC also recommends additional details surrounding the mechanism of how a benchmark could be removed from designation. For example, how much notice would be given to market participants and would rate contributors and administrators be given a reasonable amount to of time to analyze the withdraw of a benchmark and submit comments.

External Assurance Reports

Our Members also commented that the Proposal's requirement for an external assurance reports (Section 39) may be onerous, costly and adds little value over what can be done via the contributors' internal audit functions. We recommend that the requirement for an external audit be modified to only require an external audit when the Oversight Committee of the Administrators determines there is a need for one.

We also wanted clarification on the authority an administrator has to make the determination that a contributor is not adhering to the code of conduct required on benchmark submissions. For example, does the administrator have unilateral authority to make this determination.

Closing

We respectfully request that the CSA consider the recommendations and requests for clarification made in this comment letter as our members have a vested interest to fully understand and be able to comply with the proposed changes in benchmark administration and regulation.

Yours Sincerely,

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