

ANNEX C

SPECIFIC QUESTIONS OF THE CSA RELATING TO THE PROPOSED INSTRUMENT

Definitions and Interpretation

1. Does the proposed definition of “contributing individual” capture (or fail to capture) all of the arrangements between contributing individuals and administrators? If not, please explain with concrete examples.
2. Is the proposed interpretation of “control” appropriate? Please explain with concrete examples.

Governance

3. Is the requirement for the board of directors of an administrator to be comprised of a minimum of 3 directors, of which at least half must be independent, appropriate? If not, please explain with concrete examples.
4. The determination of non-independence of members of the board of directors and the oversight committee by the boards of directors of administrators as set out in paragraphs 5(4)(d), 32(2)(d) and 36(2)(d) of Proposed NI 25-102 includes a provision that if the director or oversight committee member has a relationship with the administrator that may, *in the opinion of the board of directors*, be reasonably expected to interfere with the exercise of the director’s or oversight committee member’s independent judgment, such director or oversight committee member would not be independent for purposes of Proposed NI 25-102. We are seeking comment on whether the CSA should replace the opinion of the board of directors with a “reasonable person” opinion in these paragraphs. Please explain with concrete examples.

Administrator Compliance Officer

5. Should the compliance officer of an administrator also monitor the administrator’s compliance with its own benchmark methodology? Please explain with concrete examples.
6. Should the compliance officer of an administrator not be involved in the establishment of compensation levels for any DBA individual (as defined in Proposed NI 25-102), other than for a DBA individual that reports directly to the compliance officer? For example, are there cases where compliance officer involvement in the compensation setting process is appropriate or desirable to, for example, reduce conflicts of interest? Please explain with concrete examples.

Critical Benchmarks

7. Under Proposed NI 25-102, only an administrator of a designated critical benchmark must take reasonable steps to ensure that access rights to, and information relating to, the designated critical benchmark are provided to all benchmark users on a fair, reasonable,

transparent and non-discriminatory basis. Should such access rights be afforded to all benchmark users for all designated benchmarks? Please explain with concrete examples.

8. Section 31 requires a benchmark contributor to a designated critical benchmark to notify the designated benchmark administrator for that benchmark of the benchmark contributor's decision to cease contributing input data in relation to the designated critical benchmark. Should Proposed NI 25-102 include a requirement that the benchmark contributor continue to provide data for a period of time to allow the benchmark administrator and regulators to consider the impact of the benchmark contributor's decision.

Conflicts of Interest

9. Is the requirement in subsection 11(3) of Proposed NI 25-102 appropriate, particularly as it relates to a *risk* of a significant conflict of interest? Please explain with concrete examples.

Designated Benchmarks

10. The Notice states that the current intention of the CSA is to designate only RBSL as an administrator and CDOR and CORRA as RBSL's designated benchmarks. Are there any other benchmark administrators that you believe should be designated under Proposed NI 25-102? If so, please:
 - (a) identify the benchmark administrator,
 - (b) identify any benchmark that the benchmark administrator administers that should also be designated, and
 - (c) provide your rationale for why such designations are appropriate.
11. If your organization is a benchmark administrator, please:
 - (a) advise if you intend to apply for designation under Proposed NI 25-102,
 - (b) advise of any benchmark you intend to also apply for designation under Proposed NI 25-102, and
 - (c) the rationale for your intention.

Anticipated Costs and Benefits

12. The Notice sets out the anticipated costs and benefits of Proposed NI 25-102 (in Ontario, additional detail is provided in Annex D). Do you believe the costs and benefits of Proposed NI 25-102 have been accurately identified and are there any other significant costs or benefits that have not been identified in this analysis? Please explain with concrete examples.