

REGULATION TO AMEND REGULATION 25-102 RESPECTING DESIGNATED BENCHMARKS AND BENCHMARK ADMINISTRATORS

Securities Act

(chapter V-1.1, s. 331.1, par. (1), (3), (9.3), (9.5), (9.6), (19.1) and (34), and s. 333)

1. Section 1 of Regulation 25-102 respecting Designated Benchmarks and Benchmark Administrators (chapter V-1.1, r. 8.2) is amended, in paragraph (1):

(1) by striking out the definitions of “CSAE 3000”, “CSAE 3001”, “CSAE 3530”, “CSAE 3531”, “ISAE 3000”, “limited assurance report on compliance” and “reasonable assurance report on compliance”;

(2) by inserting, after the definition of “reasonable assurance report on compliance”, the following:

““reasonable assurance report on controls” means a report prepared on a reasonable assurance basis

(a) by a public accountant on the statement of an individual or management of a person, as applicable, that

(i) relates to the description, design and implementation of policies, procedures and controls by the individual or management with respect to applicable subject requirements, and

(ii) states whether those policies, procedures and controls operated effectively over the applicable period, and

(b) in accordance with

(i) the Handbook, or

(ii) International Standards on Assurance Engagements set by the International Auditing and Assurance Standards Board, as amended from time to time;”;

(3) by inserting, in the definition of “subject requirements” and after the text preceding subparagraph (a), the following:

“(a.0) paragraphs 13.1(1)(a) and (b),”.

2. Section 5 of the Regulation is amended by replacing “a public accountant’s limited assurance report on compliance or a reasonable assurance report on compliance”, in subparagraph (b) of paragraph (2), by “or a reasonable assurance report on controls”.

3. Section 7 of the Regulation is amended by replacing “public accountant’s limited assurance report on compliance or reasonable assurance report on compliance”, in subparagraphs (f) and (g) of paragraph (8), by “reasonable assurance report on controls”.

4. The Regulation is amended by inserting, after section 13, the following:

“Assurance report on designated benchmark administrator

13.1. (1) A designated benchmark administrator must engage a public accountant to provide a reasonable assurance report on controls, in respect of each designated benchmark it administers that is not a designated critical benchmark, a designated interest rate benchmark or a designated commodity benchmark, relating to the designated benchmark administrator’s

(a) compliance with sections 5, 8 to 16, and 26, and

(b) following the methodology of the designated benchmark.

(2) A designated benchmark administrator must ensure that an engagement referred to in subsection (1) occurs

(a) in the case of the first engagement, within 12 months of the designation of the benchmark, and

(b) in the case of any subsequent engagement, once every 24 months.

(3) A designated benchmark administrator must require the public accountant to provide the reasonable assurance report on controls to the designated benchmark administrator within 90 days of the end of the 12 months or 24 months referred to in subsection (2).

(4) For purposes of subsection (1), the applicable period for the report is

(a) in the case of the first report for a designated benchmark, the period commencing 3 months before the end of the 12 months referred to in paragraph (2)(a) and ending on the last day of that 12 months, and

(b) in the case of any subsequent report for a designated benchmark, the period commencing 12 months before the end of the 24 months referred to in paragraph (2)(b) and ending on the last day of those 24 months.

(5) A designated benchmark administrator must, within 100 days of the end of the 12 months or 24 months referred to in subsection (2), publish the report and deliver a copy of the report to the regulator, except in Québec, or securities regulatory authority.”.

5. Sections 32 and 33 of the Regulation are replaced by the following:

“Assurance report on designated benchmark administrator

32. (1) A designated benchmark administrator must engage a public accountant to provide a reasonable assurance report on controls, in respect of each designated critical benchmark it administers, relating to the designated benchmark administrator’s

(a) compliance with sections 5, 8 to 16 and 26, and

(b) following the methodology of the designated critical benchmark.

(2) A designated benchmark administrator must ensure that an engagement referred to in subsection (1) occurs once every 12 months.

(3) A designated benchmark administrator must require the public accountant to provide the reasonable assurance report on controls to the designated benchmark administrator within 90 days of the end of the 12 months referred to in subsection (2).

(4) For purposes of subsection (1), the applicable period for the report is

(a) in the case of the first report for a designated critical benchmark, the period commencing 3 months before the end of the 12 months referred to in subsection (2) and ending on the last day of those 12 months, and

(b) in the case of any subsequent report for a designated critical benchmark, the period commencing on the first day of the 12 months referred to in subsection (2) and ending on the last day of those 12 months.

(5) A designated benchmark administrator must, within 100 days of the end of the 12 months referred to in subsection (2), publish the report and deliver a copy of the report to the regulator, except in Québec, or securities regulatory authority.

“Assurance report on benchmark contributor requested by oversight committee

33. (1) If requested by the oversight committee referred to in section 7 as a result of a concern relating to a benchmark contributor to a designated critical benchmark, the benchmark contributor must engage a public accountant to provide a reasonable assurance report on controls relating to the benchmark contributor's

- (a) compliance with section 24, and
- (b) following the methodology of the designated critical benchmark.

(2) A benchmark contributor must require the public accountant to provide the reasonable assurance report on controls to the benchmark contributor within 90 days of the request of the oversight committee referred to in subsection (1).

(3) For purposes of subsection (1), the applicable period for the report is 3 months, 6 months, 9 months or 12 months as specified in the request of the oversight committee.

(4) A benchmark contributor must, within 100 days of the request of the oversight committee referred to in subsection (1), deliver a copy of the report to

- (a) the oversight committee,
- (b) the board of directors of the designated benchmark administrator, and
- (c) the regulator, except in Québec, or securities regulatory authority.”

6. Sections 36 to 38 of the Regulation are replaced by the following:

“Assurance report on designated benchmark administrator

36. (1) A designated benchmark administrator must engage a public accountant to provide a reasonable assurance report on controls, in respect of each designated interest rate benchmark it administers, relating to the designated benchmark administrator's

- (a) compliance with sections 5, 8 to 16, 26 and 34, and
- (b) following the methodology of the designated interest rate benchmark.

(2) A designated benchmark administrator must ensure that an engagement referred to in subsection (1) occurs

- (a) in the case of the first engagement

(i) in the case of a designated interest rate benchmark with a benchmark contributor, within 6 months after the later of

(A) the introduction of a code of conduct for a benchmark contributor referred to in section 23, and

- (B) the designation of the benchmark, or

(ii) in the case of a designated interest rate benchmark without a benchmark contributor, within 12 months of the designation of the benchmark, and

- (b) in the case of any subsequent engagement, once every 24 months.

(3) A designated benchmark administrator must require the public accountant to provide the reasonable assurance report on controls to the designated benchmark administrator within 90 days of the end of the 6 months, 12 months or 24 months referred to in subsection (2).

(4) For purposes of subsection (1), the applicable period for the report is

(a) in the case of the first report for a designated interest rate benchmark, the period commencing 3 months before the end of the 6 months or 12 months referred to in paragraph (2)(a) and ending on the last day of those 6 months or 12 months, and

(b) in the case of any subsequent report for a designated interest rate benchmark, the period commencing 12 months before the end of the 24 months referred to in paragraph (2)(b) and ending on the last day of those 24 months.

(5) A designated benchmark administrator must, within 100 days of the end of the 6 months, 12 months or 24 months referred to in subsection (2), publish the report and deliver a copy of the report to the regulator, except in Québec, or securities regulatory authority.

“Assurance report on benchmark contributor requested by oversight committee

37. (1) If requested by the oversight committee referred to in section 7 as a result of a concern relating to a benchmark contributor to a designated interest rate benchmark, the benchmark contributor must engage a public accountant to provide a reasonable assurance report on controls relating to the benchmark contributor’s

(a) compliance with sections 24 and 39, and

(b) following the methodology of the designated interest rate benchmark.

(2) A benchmark contributor must require the public accountant to provide the reasonable assurance report on controls to the benchmark contributor within 90 days of the request of the oversight committee referred to in subsection (1).

(3) For purposes of subsection (1), the applicable period for the report is 3 months, 6 months, 9 months or 12 months as specified in the request of the oversight committee.

(4) A benchmark contributor must, within 100 days of the request of the oversight committee referred to in subsection (1), deliver a copy of the report to

(a) the oversight committee,

(b) the board of directors of the designated benchmark administrator, and

(c) the regulator, except in Québec, or securities regulatory authority.

“Assurance report on benchmark contributor required at certain times

38. (1) A benchmark contributor to a designated interest rate benchmark must engage a public accountant to provide a reasonable assurance report on controls relating to the benchmark contributor’s

(a) compliance with sections 24 and 39,

(b) following the methodology of the designated interest rate benchmark, and

(c) following the code of conduct referred to in section 23.

(2) A benchmark contributor must ensure that an engagement referred to in subsection (1) occurs

(a) in the case of the first engagement, 6 months after the later of

(i) the introduction of a code of conduct for benchmark contributors referred to in section 23, and

(ii) the designation of the benchmark, and

(b) in the case of any subsequent engagement, once every 24 months.

(3) A benchmark contributor must require the public accountant to provide the reasonable assurance report on controls to the benchmark contributor within 90 days of the end of the 6 months or 24 months referred to in subsection (2).

(4) For purposes of subsection (1), the applicable period for the report is

(a) in the case of the first report for a designated interest rate benchmark, the period commencing 3 months before the end of the 6 months referred to in paragraph (2)(a) and ending on the last day of those 6 months, and

(b) in the case of any subsequent report for a designated interest rate benchmark, the period commencing 12 months before the end of the 24 months referred to in paragraph (2)(b) and ending on the last day of those 24 months.

(5) A benchmark contributor must, within 100 days of the end of the 6 months or 24 months referred to in subsection (2), deliver a copy of the report to

(a) the oversight committee referred to in section 7,

(b) the board of directors of the designated benchmark administrator, and

(c) the regulator, except in Québec, or securities regulatory authority.

7. Section 39 of the Regulation is amended by replacing “limited assurance report on compliance or reasonable assurance report on compliance”, in subparagraph (b) of paragraph (8), by “reasonable assurance report on controls”.

8. Section 40.13 of the Regulation is replaced by the following:

“Assurance report on designated benchmark administrator

40.13. (1) A designated benchmark administrator must engage a public accountant to provide a reasonable assurance report on controls, in respect of each designated commodity benchmark it administers, relating to the designated benchmark administrator’s

(a) compliance with subsection 5(1) and sections 11 to 13, 40.3, 40.4, 40.6, 40.7, and 40.9 to 40.12, and

(b) following the methodology applicable to the designated commodity benchmark.

(2) A designated benchmark administrator must ensure that an engagement referred to in subsection (1) occurs once every 12 months.

(3) A designated benchmark administrator must require the public accountant to provide the reasonable assurance report on controls to the designated benchmark administrator within 90 days of the end of the 12 months referred to in subsection (2).

(4) For purposes of subsection (1), the applicable period for the report is

(a) in the case of the first report for a designated commodity benchmark, the period commencing 3 months before the end of the 12 months referred to in subsection (2) and ending on the last day of that 12 months, and

(b) in the case of any subsequent report for a designated commodity benchmark, the period commencing on the first day of the 12 months referred to in subsection (2) and ending on the last day of that 12 months.

(5) A designated benchmark administrator must, within 100 days of the end of the 12 months referred to in subsection (2), publish the report and deliver a copy of the report to the regulator, except in Québec, or securities regulatory authority.”.

9. The Regulation is amended by replacing all occurrences of “limited assurance report on compliance or reasonable assurance report on compliance”, in sections 24, 26 and 40.11, by “reasonable assurance report on controls”.

10. (1) This Regulation comes into force on (*indicate here the date of coming into force of this Regulation*).

(2) In Saskatchewan, despite paragraph (1), if this Regulation is filed with the Registrar of Regulations after (*indicate here the date of coming into force of this Regulation*), this Regulation comes into force on the day on which it is filed with the Registrar of Regulations.