

Ontario Securities Commission

Rule 13-503

Unofficial consolidation current to 2019-10-18.

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**ONTARIO SECURITIES COMMISSION RULE 13-503
COMMODITY FUTURES ACT FEES**

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PART 1 DEFINITIONS

Definitions

1.1 In this Rule

“CFA” means the Commodity Futures Act;

“CFA activities” means activities for which registration under the CFA is required, or activities for which an exemption from registration is required under the CFA, or would be so required if those activities were carried out in Ontario;

“generally accepted accounting principles”, in relation to a person or company, means the generally accepted accounting principles used to prepare the financial statements of the person or company in accordance with Ontario securities law;

“IIROC” means the Investment Industry Regulatory Organization of Canada;

“OBA amendment” means an amendment to OSC Rule 33-506 (*Commodity Futures Act*) *Registrant Information* that sets out circumstances in which outside business activity is required to be disclosed;

“Ontario percentage” means, in relation to a person or company for a previous financial year,

- (a) in the case of a person or company that has a permanent establishment in Ontario in the previous financial year and no permanent establishment elsewhere, 100%,
- (b) in the case of a person or company that has a permanent establishment in Ontario and elsewhere in the previous financial year and has taxable income in the previous financial year that is positive, the percentage of the taxable income that is taxable income earned in the year in Ontario, and
- (c) in any other case, the percentage of the total revenues of the person or company for the previous financial year attributable to CFA activities in Ontario;

“permanent establishment” means a permanent establishment as defined in subsection 400(2) of the *Income Tax Regulations* (Canada);

“permitted individual” has the same meaning as in OSC Rule 33-506 (*Commodity Futures Act*) *Registration Information*;

“previous financial year” means, in relation to a registrant firm, the financial year of the firm ending in the then current calendar year;

“principal regulator” has the same meaning as in National Instrument 33-109 *Registration Information* under the *Securities Act*;

“registrant firm” means a person or company registered as dealer or an adviser under the CFA;

“specified day” means

- (a) in relation to the late filing of Form 33-506F5 for the purposes of amending item 10 of Form 33-506F4, a business day occurring:
 - (i) before January 1, 2019, or
 - (ii) after the date which is the earlier of:

- (A) the date that the first OBA amendment comes into force, and
 - (B) December 31, 2021, and
- (b) in any other case, any business day;

“specified Ontario revenues” means the revenues determined in accordance with section 2.6 or 2.7;

“taxable income” means taxable income as determined under the *Income Tax Act* (Canada); and

“taxable income earned in the year in Ontario”, in relation to a person or company for a financial year, means the taxable income of the person or company earned in the financial year in Ontario as determined under Part IV of the *Income Tax Regulations* (Canada).

PART 2 PARTICIPATION FEES

Application

2.1 This Part does not apply to a registrant firm that is registered under the *Securities Act* and that has paid its participation fee under Rule 13-502 *Fees* under the *Securities Act*.

Participation fee

2.2 (1) A registrant firm must, by December 31 in each year, pay the participation fee shown in Appendix A opposite the specified Ontario revenues for the previous financial year of the firm.

(2) A registrant firm must, by December 1 in each year, file a completed Form 13-503F1 showing the information required to determine the participation fee referred to in subsection (1).

(3) Despite subsection (1), a firm that becomes registered between December 1 and 31 must file a completed Form 13-503F1 within 60 days of the date of registration.

Estimating specified Ontario revenues for late financial year end

2.3 (1) If the annual financial statements of a registrant firm for a previous financial year are not completed by December 1 in the calendar year in which the previous financial year ends, the firm must,

- (a) by December 1, file a completed Form 13-503F1 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the previous financial year, and
- (b) by December 31, pay the participation fee shown in Appendix A opposite its estimated specified Ontario revenues for the previous financial year.

(2) A registrant firm that estimated its specified Ontario revenues under subsection (1) must, not later than 90 days after the end of the previous financial year,

- (a) calculate its specified Ontario revenues,
- (b) determine the participation fee shown in Appendix A opposite the specified Ontario revenues,

- (c) if the participation fee determined under paragraph (b) exceeds the participation fee paid under subsection (1), pay the balance owing and file a completed Form 13-503F1 and Form 13-503F2.

(3) A registrant firm that pays an amount under subsection (1) that exceeds the participation fee determined under subsection (2) is entitled to a refund from the Commission of the excess.

(4) A request for a refund under subsection (3) must be made to the Commission by the same date on which the form referred to in paragraph (2)(c) is required to be filed.

Certification

2.4 (1) A form required to be filed under section 2.2 or 2.3 must contain a certification signed by any one of the following:

- (a) the chief compliance officer of the registrant firm;
- (b) a specified officer of the registrant firm, or an individual acting in a similar capacity;
- (c) a director of the registrant firm.

(2) For the purposes of subsection (1)(b), “specified officer” of a registrant firm means an individual with any or more of the following positions in relation to the registrant firm:

- (a) chief executive officer;
- (b) chief financial officer;
- (c) chief operating officer.

Late fee

2.5 (1) A registrant firm that is late in paying a participation fee under this Part must pay an additional late fee of 0.1% of the unpaid portion of the participation fee for each business day on which any portion of the participation fee was due and unpaid.

(2) A late fee calculated under subsection (1) is deemed to be nil if it is less than \$100.

Calculating specified Ontario revenues for IIROC members

2.6 (1) The specified Ontario revenues for a previous financial year of a registrant firm that was an IIROC member at the end of the previous financial year is calculated by multiplying

- (a) the registrant firm’s total revenues for the previous financial year, less the portion of the total revenue not attributable to CFA activities,
by
- (b) the registrant firm’s Ontario percentage for the previous financial year.

(2) For the purpose of paragraph (1)(a), “total revenues” for a previous financial year means the amount shown as total revenue for the previous financial year on Statement E of the *Joint Regulatory Financial Questionnaire and Report* filed with IIROC by the registrant firm.

Calculating specified Ontario revenues for others

2.7 (1) The specified Ontario revenues of a registrant firm that was not a member of IIROC at the end of the previous financial year is calculated by multiplying

- (a) the registrant firm's total revenues, as shown in the audited financial statements prepared in accordance with generally accepted accounting principles for the previous financial year, less deductions permitted under subsection (2),
by
- (b) the registrant firm's Ontario percentage for the previous financial year.

(2) For the purpose of paragraph (1)(a), a registrant firm may deduct the following items if earned in the previous year from its total revenues:

- (a) revenues not attributable to CFA activities;
- (b) advisory or sub-advisory fees paid during the previous financial year by the registrant firm to
 - (i) a registrant firm under the CFA or a registrant firm under the *Securities Act*, or
 - (ii) an unregistered exempt international firm, as defined in Rule 13-502 *Fees* under the *Securities Act*.

PART 3 ACTIVITY FEES

Activity fees – General

3.1 A person or company must, when filing a document or taking an action described in Row A to F of Column A of Appendix B, pay the activity fee shown opposite the description of the document or action in Column B.

Information request

3.2 A person or company that makes a request described in any of Rows G1 to G3 of Column A of Appendix B must pay the fee shown opposite the description of the request in Column B of Appendix B before receiving the document or information requested.

Late fee

3.3 A person or company that files or delivers a form or document listed in Column A of Appendix C after the form or document was required to be filed or delivered must, when filing or delivering the form or document, pay the late fee shown in Column B of Appendix C opposite the description of the form or document.

PART 4 CURRENCY CONVERSION

Canadian dollars

4.1 If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date, and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily exchange rate for the last business day preceding the particular date as posted on the Bank of Canada website.

PART 5 EXEMPTION

Exemption

5.1 The Director may grant an exemption from the provisions of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 REVOCATION AND EFFECTIVE DATE [LAPSED]

Revocation

6.1 Rule 13-503 (*Commodity Futures Act*) Fees which came into force on June 1, 2009, is revoked.

Effective date

6.2 This Rule comes into force on [April 6, 2015].

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Previous Financial Year	Participation Fee
under \$250,000	\$835
\$250,000 to under \$500,000	\$1,085
\$500,000 to under \$1 million	\$3,550
\$1 million to under \$3 million	\$7,950
\$3 million to under \$5 million	\$17,900
\$5 million to under \$10 million	\$36,175
\$10 million to under \$25 million	\$74,000
\$25 million to under \$50 million	\$110,750
\$50 million to under \$100 million	\$221,500
\$100 million to under \$200 million	\$367,700
\$200 million to under \$500 million	\$745,300
\$500 million to under \$1 billion	\$962,500
\$1 billion to under \$2 billion	\$1,213,800
\$2 billion and over	\$2,037,000

APPENDIX B — ACTIVITY FEES

Row	Document or Activity (Column A)	Fee (Column B)
	A. Application for specifically enumerated relief, approval and recognition	
A1	Application under: <ul style="list-style-type: none"> (a) Section 24 or 40 or subsection 36(1) or 46(6) of the CFA, and (b) Subsection 27(1) of the Regulation to the CFA. 	Nil
A2	An application for relief from this Rule.	\$1,800
A3	An application for relief from any of the following: <ul style="list-style-type: none"> (a) OSC Rule 31-509 (Commodity Futures Act) National Registration Database; (b) OSC Rule 33-505 (Commodity Futures Act) Registration Information; (c) Subsection 37(7) of the Regulation to the CFA 	\$1,800
	B. Market Regulation Recognitions and Exemptions	
B1	An application for registration or recognition of an exchange under section 15 or 34 of the CFA if the application is not made in conjunction with the application for recognition of an exchange under the <i>Securities Act</i> ;	\$110,000
B2	An application for registration or recognition of an exchange under section 15 or 34 of the CFA if the application is made in conjunction with the application for recognition of an exchange under the <i>Securities Act</i> ;	\$22,000
B3	An application for exemption from registration of an exchange under section 80 of the CFA if the application is not made in conjunction with the application for exemption from the recognition of an exchange under the <i>Securities Act</i> ;	\$83,000
B4	An application for exemption from registration of an exchange under section 80 of the CFA if the application is made in conjunction with the application for exemption from the recognition of an exchange under the <i>Securities Act</i> ;	\$22,000
B5	An application for recognition of a clearing house under section 17 of the CFA if the application is not made in conjunction with the application for recognition of a clearing agency under the <i>Securities Act</i> ;	\$110,000

Row	Document or Activity (Column A)	Fee (Column B)
B6.	An application for recognition of a clearing house under section 17 of the CFA if the application is made in conjunction with the application for recognition of a clearing agency under the <i>Securities Act</i> .	<p>\$22,000</p> <p>(plus an additional fee of \$100,000 in connection with an application described in any of Rows B1 to B6 that</p> <p>(a) reflects a merger of an exchange or clearing agency,</p> <p>(b) reflects an acquisition of a major part of the assets of an exchange or clearing agency, or</p> <p>(c) involves the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency, or reflects a major reorganization or restructuring of an exchange or clearing agency).</p>
	C. Registration-Related Activity	
C1	New registration of a firm in one or more categories of registration	\$1,300
C2	Addition of one or more categories of registration	\$700

Row	Document or Activity (Column A)	Fee (Column B)
C3	<p>Registration of a new individual to trade or advise on behalf of the registrant firm</p> <p><i>Notes:(i) If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.</i></p>	<p>\$200 per individual, unless the individual makes an application to register in the same category of registration within three months of terminating employment with a previous firm.</p>
C4	<p>Review of permitted individual</p>	<p>\$100, unless the individual is already registered to trade or advise on behalf of the registrant firm</p>
C5	<p>Change in status from a non-trading or non-advising capacity to a trading or advising capacity</p>	<p>\$200 per individual</p>
C6	<p>Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms</p>	<p>\$1,000</p>
C7	<p>Application for amending terms and conditions of registration</p>	<p>\$800</p>
D1	<p>D. Director Approval</p> <p>An application for approval of the Director under Section 9 of the Regulation to the CFA</p> <p><i>Note: No fee for an approval under subsection 9(3) of the Regulation to the CFA is payable if a notice covering the same circumstances is required under sections 11.9 or 11.10 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.</i></p>	<p>\$3,500</p>
E1	<p>E. Pre Filings</p> <p>Each pre-filing relating to the items described in Rows B1 to B6 of Appendix B</p>	<p>One-half of the otherwise applicable fee that would be payable if the corresponding formal filing had proceeded at the same time as the pre-filing.</p>

Row	Document or Activity (Column A)	Fee (Column B)
E2	<p>Any other pre-filing of an application</p> <p><i>Note: The fee for a pre-filing of an application will be credited against the applicable fee payable if and when the corresponding formal filing is actually proceeded with; otherwise, the fee is nonrefundable.</i></p>	<p>The applicable fee that would be payable if the corresponding formal filing had proceeded at the same time as the pre-filing.</p>
	<p>F. Any Application not otherwise listed in this Rule</p>	
F1	<p>An application for</p> <ul style="list-style-type: none"> (a) relief from one section of the CFA, a regulation or a rule, or (b) recognition or designation under one section of the CFA, a regulation or a rule. 	<p>\$4,800</p>
F2	<p>An application for</p> <ul style="list-style-type: none"> (a) relief from two or more sections of the CFA, a regulation or a rule made at the same time, or (b) recognition or designation under two or more sections of the CFA, a regulation or a rule made at the same time. 	<p>\$7,000</p>
F3	<p>An application made under F1 or F2 if none of the following is subject to, or is reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-502</p> <p><i>Fees:</i></p> <ul style="list-style-type: none"> (i) the applicant; (ii) an issuer of which the applicant is a wholly owned subsidiary; 	<p>The amount in F1 or F2 is increased by \$2,000</p>
F4	<p>An application under subsection 78(1) of the CFA if the application</p> <ul style="list-style-type: none"> (a) reflects a merger of an exchange or clearing agency, (b) reflects an acquisition of a major part of the assets of an exchange or clearing agency, (c) involves the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency, or (d) reflects a major reorganization or restructuring of an exchange or clearing agency. 	<p>The amount in F1 or F2 is increased by \$100,000</p>
	<p>G. Requests to the Commission</p>	
G1	<p>Request for a copy (in any format) of Commission public records</p>	<p>\$0.50 per image</p>
G2	<p>Request for a search of Commission public records</p>	<p>\$7.50 for each 15 minutes search time spent by any person</p>

Row	Document or Activity (Column A)	Fee (Column B)
G3	Request for one's own individual registration form.	\$30

APPENDIX C — ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document (Column A)	Late Fee (Column B)
<p>A. Fee for late filing or delivery of any of the following forms or documents:</p> <ul style="list-style-type: none"> (a) Annual financial statements and interim financial information; (b) Report under section 15 of the Regulation to the CFA; (c) Report under section 17 of the Regulation to the CFA; (d) Form 33-506F1; (e) Form 33-506F5, if the Commission is the principal regulator for the registrant firm or the individual and the filing is made for the purpose of amending: <ul style="list-style-type: none"> (i) one or more of items 10, 12, 13, 14, 15, 16, or 17 of Form 33-506F4, or (ii) one or more of items 1, 2, 3, 4, 5.3, 5.4, 5.5, 5.8, 5.9, 5.10, 5.11, 5.12, 6, 7, or 8 of Form 33-506F6 if the information being amended relates to the registrant firm and not a specified affiliate (as defined in Form 33-506F6) of the registrant firm; (f) Any form or document required to be filed or delivered by a registrant firm or individual in connection with the registration of the registrant firm or individual under the CFA with respect to, <ul style="list-style-type: none"> (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (g) Form 13-503F1; (h) Form 13-503F2. 	<p>For each form or document required to be filed or delivered, \$100 for every specified day following the date the form or document was required to be filed or delivered until the date the form or document is filed or delivered, subject to a maximum aggregate late fee of,</p> <ul style="list-style-type: none"> (a) if the person or company is subject to a participation fee under Part 2 of the rule and the estimated specified Ontario revenues for the previous financial year are greater than or equal to \$500 million, \$10,000 for all forms or documents required to be filed or delivered by the person or company in the calendar year, or (b) in all other cases, \$5,000 for all forms or documents required to be filed or delivered by the person or company in the calendar year.
<p>B. Fee for late filing or delivery of Form 33-506F5 if the Commission is the principal regulator for the registrant firm and the filing is made for the purpose of amending Form 33-506F6 for information of a specified affiliate (as defined in Form 33-506F6) of the registrant firm.</p>	\$100