



IGM Financial Inc. 180 Queen Street West, 16th Floor, Toronto, Ontario M5V 3K1

Charles R. Sims, FCA
Co-President and Chief Executive Officer

November 20, 2012

Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M4H 3S8

Attention: John Stevenson, Secretary

Dear Sirs/Mesdames:

Re: Request for Comment (the “Notice”)¹
Proposed Amendments to OSC Rule 13-502 (Fees)

This letter is in response to the Ontario Securities Commission’s (the “OSC”) request for comments on the proposed Amendments to OSC Rule 13-502 (Fees) issued on August 23, 2012 (the “Proposal”).

Information about IGM Financial Inc.

IGM Financial Inc. (“IGM”) is directly affected by any changes in the OSC fee rules since it is both a reporting issuer and has a number of capital market participants (registered dealers and advisors) and mutual fund issuers within its structure. The fees paid by IGM and its various subsidiaries (not including various activity fees such as prospectus renewal fees and relief applications) to the OSC in 2011 totalled approximately \$1.725 million, which represents over 2% of the OSC’s total fee income (excluding its late fee revenues) during its financial year ending March 31 2012².

The OSC advises that under the Proposal its revenues will increase by 14.8% during the 1st year, and that the fees for registrants and issuers will increase annually by 7.9%, and 15.5%, respectively³. We estimate that our fees, cumulatively over the upcoming 3 year fee cycle, will increase by more than 17% as compared to the amount we otherwise would have had to pay pursuant to the current fee schedule, assuming that IGM and its subsidiary registrants remain within their current capital finance and capital market fee tiers (respectively). This far exceeds the current rate of inflation, as well as the OSC’s anticipated increases in its own expenses of 5% over the next 3 years⁴.

General Comments on the Proposal

We are concerned that the Proposal does not go far enough to correct the disproportionate fee burden charged to mutual fund industry participants. The OSC acknowledges that even after these changes are implemented the relative share of revenues it obtains from registrants and issuers will be approximately 60% and 40%, respectively⁵, so further increasing mutual fund registrant fees serves to detract from the OSC's stated objective of balancing the relative shares of fees paid by market participants.

The proposed registrant fee increases do not reflect that the mutual fund industry is well established and already heavily regulated, with extensive and experienced SRO oversight, and are not justified based on the OSC's need to expand to meet certain stated regulatory concerns regarding complex trading strategies and products, cross-border matters in compliance and enforcement including emerging markets, the regulation of OTC derivatives and the proliferation of new products⁶, none of which are focused on the mutual fund industry.

Further, these fee increases disregard the ultimate impact that they will have on retail investors, which appears to be at odds with the OSC's expressed concerns about investor fees. In this regard, we view new section 4.1 of the Companion Policy, which provides that participation fees payable annually by registrant firms generally represent their costs of participation in the Ontario markets "and should be paid and borne by them", to be unreasonable as it appears to assume that registrants are in a position to absorb any fee increases. We note that when the OSC adopted its current fee model in 2003 it expressly agreed that registrants could seek proportionate reimbursement of their regulatory fees from mutual funds to the extent these fees had replaced the activity fees previously charged to mutual funds, so the OSC should not now take the position that registrant participation fee increases will not have any impact on retail investors.

Specific Comments on the Proposal

We wish to make the following additional comments on certain aspects of the Proposal:

1. Increasing the Accumulated Surplus to \$30 million is Unjustified

Once again the OSC has deviated from its previously stated goal to eliminate its accumulated surplus by the end of its current fiscal year⁷ despite the negative impact on participant revenues and capitalization from the 2008 financial crisis and despite the huge increase in its expenses during fiscal 2013⁸ and, in fact, its accumulated surplus would likely have been much higher had the OSC not incurred several non-recurring extra-ordinary expenses during 2011-12, including completion of an 8 month Emerging Markets Issuers Review⁹; restructuring costs due to 'realignment with OSC Strategic Plan priorities'¹⁰; extra costs associated with the review of the proposed acquisition of the TSX Group by Maple Group Acquisition Corporation; and expansion costs associated with the OSC's new premises 'build-out'¹¹.

We are further concerned that the OSC has now reversed its long-standing policy to eliminate its accumulated surplus and, instead, wishes to increase its accumulated surplus to at least \$30 million by the end of the upcoming 3 year fee cycle¹². This directly conflicts with the OSC's cost-recovery operational mandate¹³, and prior acknowledgements that its accumulated surplus represents an over-payment of fees that should be refunded. We submit that OSC's rationale that these increases are needed at least in part to position itself to deal with emerging responsibilities and regulatory issues, unforeseen cost increases or revenue shortfalls, and to assist with managing its seasonal cash-flow needs and multi-year investments¹⁴ is unjustified because the OSC has a \$20 million reserve fund, a Line of Credit facility¹⁵ and a \$79.2 million¹⁶

SEDAR, SEDI and NRD maintenance trust fund¹⁷ available should it encounter an unanticipated drop in revenues and/or cost increases. Although the OSC needed to ‘fully use’ the general reserve and resorted ‘for the 1st time’ to its \$7.5 million line of credit¹⁸ in 2012, we note that both were both fully restored by year end. In other words, it appears to us that the OSC has a cash-flow problem, not a revenue problem.

Therefore, instead of fee increases, the OSC should consider ways to improve its cash-flow during the year such as by the introduction of a meaningful fee payment discount to encourage registrants to pay their fees earlier, and having issuers pay their fees in June, rather than in December. We would be pleased to assist the OSC in formulating a process to implement either of these approaches.

2. Activity Fees should be Fair

The OSC indicates Activity Fee increases are required to offset its increased costs of resources to provide certain services, however, we believe that some Activity Fees (such as renewal filing fees for multiple fund prospectuses) do not truly reflect the OSC’s actual costs – and we direct the OSC to IFIC’s earlier submissions in this regard.

We are also concerned about the introduction of arbitrary ‘variable cost-based fees’ to be paid for certain filings if the ‘designated cost’ incurred by the OSC to review the application exceeds a pre-determined threshold because they could result in a filer paying substantially higher than anticipated fees retrospectively after filing an application which, had this been known in advance, may have impacted the decision to proceed with the filing¹⁹. We note that although these fees are initially payable only by an exchange, ATS or clearing agency, the OSC gives no guidance or assurance that it will not apply to other participants in the future²⁰.

Also, variable cost-based fees place the OSC in a potentially difficult conflict of interest position as there is nothing to dissuade the OSC from taking excessive time or incurring excessive expenses when reviewing applications for which variable cost fees are payable, other than an informal review of the final invoice by the Director and Commission, nor is there any limit on the costs that may be charged back for the services provided by 3rd parties contracted by the OSC in connection with the matter.

Accordingly, at a minimum, we believe that if the OSC intends to impose any variable cost-based ‘special’ fee it ought to be subject to a formal approval process, similar to when an applicant for registration seeks an Opportunity to be Heard pursuant to section 31 of the *Securities Act (Ontario)*; and that the filer be provided the right similar to subsection 8(2) of the *Securities Act* to ask the Ontario Securities Commission to review the Director’s decision.

3. Don’t base Fees for 3 years on a single ‘Reference Fiscal Year’

We agree that the concept of basing fees on historical revenues based with reference to the participant’s capitalization or Specified Ontario Revenues during a prior ‘reference fiscal year’ has merit, rather than using forecasted data, but we are concerned that fixing a participant’s fee for the entire 3 year fee cycle based on a single reference fiscal year could exacerbate fee increases (or decreases) by postponing the recognition of revenue decreases (or gains) experienced by registrants.

Accordingly, to minimize the possibility of fees being set too high (or too low) as a result of volatile market conditions, and as a means to help make the OSC's fee revenues less volatile, we recommend that either: (i) the OSC move to a two year fee cycle commencing in fiscal 2013/14 instead of a 3 year cycle with fees based on the participant's reference fiscal year; or more preferably, (ii) the reference fiscal year be determined each year of the 3 year cycle as a rolling average of the participant's Ontario Specified Revenues or capitalization (as applicable) during the preceding 3 years ending with the fiscal year immediately prior to May 31st of each year.

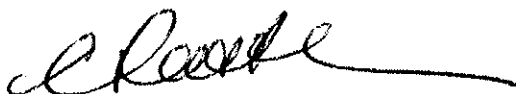
4. Confirm there is no Double Fee Payable by Non-resident Investment Fund Managers

New section 1.3 of the Companion Policy provides that liability for payments by a firm under any of Parts 2 (issuers) to 3.1 (registrants) of the Rule does not affect the firm's liability for fees under 'any *other of those Parts*'. We ask that the OSC confirm that no additional fees are payable by investment fund managers that are already registered under a different category of registration, by perhaps making specific reference about this within section 2.6 (*Registrants under the Securities Act and the Commodity Futures Act*) or section 4.8 (*Change of Status of Unregistered Investment Fund Managers*) of the CP, given that the participation fees payable by registered firms and unregistered investment fund managers are in different sections (section 3.1(1) and 3.1(2), respectively) of Part 3.1²¹.

Closing

If you should have any questions with respect to this matter, we would be pleased to discuss them with you. Thank you for providing us with the opportunity to respond to your request for comments.

Sincerely,



Charles R. Sims, FCA
Co-President and Chief Executive Officer

Endnotes Page

¹ Request for Comments published August 23, 2012 (2012) 35 OSCB 7801.

² Actual OSC Participation Fee and Activity Fee revenue of \$82.4 million during fiscal 2012, as per page 33 of the OSC's 2012 Annual Report.

³ Notice, at pages 7802 and 7803.

⁴ Notice, at page 7804.

⁵ Notice, at page 7803.

⁶ Notice, at page 7801.

⁷ The OSC acknowledges that *in setting fees for the three years ended March 2013*, the OSC planned to operate at a deficiency in each year so as to *eliminate the surplus* by the end of the period. (OSC 2012 Annual Report – page 35).

⁸ This is largely because OSC fee income has increased 17.4% during 2012 under the current fee schedule, including a 22.8% increase in participation fees relative to 2011. (Notice, at page 7804.)

⁹ The OSC redeployed “significant existing resources” (OSC 2012 Annual Report at page 40) including a significant increase in the cost of 3rd party Professional Services by \$3.3 million (roughly 123.5% above prior year levels), with 2/3 of this increase due to Emerging Market Enforcement matters and 1/5 due to the OSC's Internal Strategic Planning Initiative. (OSC 2012 Annual Report at page 34.)

¹⁰ OSC 2012 Annual Report at page 40.

¹¹ During fiscal 2013, the OSC's capital expenditures are expected to more than quadruple to over \$8 million (up more than \$5.6 million from 2012). The OSC attributes this to “significant increase” to the building of recently acquired additional office space and includes considerable investment to support upgrading and expansion of the OSC information technology (OSC 2012 Annual Report at page 41).

¹² The OSC further indicates that its ultimate goal is a surplus reserve account up to 50% of its average annual expenditures (which we estimate to be upwards of \$50 million based on the OSC estimated costs of \$99.99 million for fiscal 2013 (Notice, at page 7804).

¹³ Notice, at page 7801.

¹⁴ Notice, at page 7803 and 7804.

¹⁵ The OSC seeks to increase from \$7.5 million to \$35 million during 2013 (OSC 2012 Annual Report at page 36).

¹⁶ OSC 2012 Annual Report at page 37.

¹⁷ OSC 2010 Annual Report at page 41.

¹⁸ OSC 2012 Annual Report at page 36.

¹⁹ We note that the filer may be invoiced for variable costs incurred at any time within 12 months before the invoice is issued, and Part 6 of the Companion Policy indicates that the OSC will discuss with a filer the application of this fee “*at the time when the OSC staff identify that the additional fee may be payable*”.

²⁰ The proposed addition of new section 2.5.1 to the Companion Policy 13-502CP (the “CP”) states only that this fee is levied to help recover “*costs in non-routine, novel or complex regulatory filings*” which could extend in the future to other applications at the discretion of the OSC.

²¹ We also note that Section 3.1(4) further stipulates that if an unregistered investment fund manager becomes a registrant during the year, its non-resident IFM participation fee will be pro-rated, and Section 4.8 of the CP indicates that this is intended to prevent the imposition of a participation fees in excess of those that would have been charged had there been no change in registration status, but neither of these provisions speaks to where a firm that is an unregistered IFM is already a registrant in a different category.