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SUBMISSION

OF THE

INVESTMENT INDUSTRY ASSOCIATION OF CANADA ("IIAC")

TO THE

ONTARIO SECURITIES COMMISSION

IN RESPONSE TO THE

REQUEST FOR COMMENTS ON PROPOSED AMENDMENTS TO OSC RULE 13-502 FEES AND COMPANION POLICY 13-502CP FEES

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Appendix: 2012 Q2 Securities Industry Performance

I. Introduction

On August 23, 2012 the Ontario Securities Commission ("Commission" or "OSC") published a Request for Comments on Proposed Amendments to OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees (the "Request", the "Proposed Rule" and the "Proposed CP").[1] This submission responds to the Request on behalf of the Investment Industry Association of Canada ("IIAC") and its members. The IIAC appreciates the Commission's agreement to extend the time for filing this submission to November 26, 2012.

The IIAC is a member-based professional association of registered investment dealers that advances the growth and development of the Canadian investment industry, acting as a strong, proactive voice to represent the interests of our members and the investing public.

II. Background

The Commission plays a significant role under its mandate to protect investors and foster fair and efficient capital markets and confidence in them. Its ability to do so effectively is necessarily affected by its financial resources and budget. Because its enforcement and other capabilities were limited by budgetary constraints, the Commission was authorized in 1997 to retain fees paid to it under Ontario securities and other laws to permit it to fully fund its priorities. These fees are determined and prescribed by the Commission under its rulemaking power.

Self-funding was expected to permit the Commission to reduce its fees. Since it was granted self-funding, however, the Commission's regulatory responsibilities have expanded to address issues created by dynamic international markets, such as emerging market issuers, multijurisdictional investigations, regulation of OTC derivatives and other aspects of systemic risk, which are identified in the Request. The Commission has characterized these new issues as having fundamentally changed capital markets in recent years, resulting in "sharp increases in the breadth of" its regulatory responsibilities.

The increases in the resources required by the Commission to fulfill its mandate are reflected in the rise in its expenses from approximately $19,000,000 in 1995 to over $91,100,000 in 2012.[2] In the five years ended March 2012, the Commission's annual operating expenses rose approximately 31.5% from approximately $69,300,000 to over $91,100,000. It projects that they will increase to over $115,000,000 by 2016; its expenses for its year ending March 31, 2016 will reflect a six-year increase of over 44% and a four-year increase of approximately 27%.

Despite its increasing expenditures, the revenues received by the Commission from 1995 to 2008 invariably, and usually significantly, exceeded its expenses. After it was granted self-funding and eliminated a secondary market transaction fee in 1997, the Commission reduced fees charged to the industry by 10% in 1999 and continued to remit substantial surplus amounts to the

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[1] (2012) 35 OSCB 7801(August 23).

[2] The 2012 figure reflects expenses before recovery of enforcement costs; see *OSC Annual Report 2012*, p. 45 (financial statements). The figure for expenses in the Commission's 2012–2013 Statement of Priorities is the amount after recovery of costs in enforcement proceedings; see *OSC Notice 11-767: Notice of Statement of Priorities for Financial Year to end March 31, 2013*, (2012) 35 OSCB 5927 (June 28), p. 5934.

Consolidated Revenue Fund, ranging from over $16,000,000 in 1998 to over $32,000,000 in its 2001 year.

Until 2003, the Commission's fee schedule, like those in other provinces, imposed activity fees based on applications made to it and documents filed with it. In most cases, a flat fee was prescribed. In some, however, the fee varied with the benefit obtained from the filing; for example, fees relating to distributions of securities included a component based on a percentage of the funds raised in the province.

In 2003, the Commission changed its fee model and adopted the approach it currently follows, distinguishing between participation fees and activity fees. Activity fees continued to be based on applications made to, and certain filings relating to distributions of securities, takeover bids and issuer bids with, the Commission and approximated the Commission's average direct cost of staff resources in processing the specific types of application. The Commission based its participation fees on a "broad range of regulatory services that could not be practically or easily attributed to individual activities or entities"; they were intended to serve as a proxy for the use by reporting issuers and registrants of Ontario's capital market and the implied benefits received by them. Accordingly, participation fees replaced filing fees for most continuous disclosure documents and most of the ongoing activity fees, like renewal fees, charged to registrants. Participation fees are based on reporting issuers' market capitalization and on annual revenues from activities of registrants within the province.

The primary purposes of the new approach to fees were to reduce the overall fees charged to market participants and to reflect more accurately the Commission's costs of providing services, with a view to cost recovery.[3] Accordingly, the Minister of Finance agreed that the Commission was no longer required to pay its surplus fees into the Consolidated Revenue Fund.

But neither has occurred. Overall fees have increased along with the Commission's expenses, as described above. In addition, because the Commission's participation fees are based on issuers' market capitalization and registrants' revenues, they are necessarily directly tied to market activities and share prices. As a result, the Commission has had difficulty in accurately projecting its annual revenues,[4] which continued to exceed its ever-increasing expenses, leading to a fee rebate of over $14,900,000 in 2005 and, despite its attempt to reduce its fee revenues from 2007 to 2009 on the basis of the accumulated surplus forecasted for 2006, to an operating surplus of over $88,400,000 by 2008.[5]

In the last three years, following the adverse market events in 2008 and 2009, the Commission has utilized this surplus to reduce its fees to minimize their impact on market participants. It waived an increase in fees for 2009 and adopted increases in its participation fees, but not activity fees, for 2010, 2011 and 2012 that were not sufficient to cover its projected expenses, relying on its accumulated surplus to cover the deficits. As of March 31, 2012, the

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[3] See *Notice and Request for Comments 11-901: Concept Proposal to Revise Schedule 1 (Fees)*, (2001) 24 OSCB 1971 (March 30), p. 1973. A third purpose was to "simplify, clarify and streamline" the then current fee schedule.

[4] See, e.g., *OSC Annual Report 2012*, p. 49 (financial statements, note 3(c))(participation fees cannot be measured reliably before received, as market capitalization of issuers and revenue of registrants are "not determinable prior to receipt").

[5] *OSC Annual Report 2008*, p. 44 (financial statements). The surplus included a general surplus of approximately $56,412,000 and a reserve of $32,000,000.

Commission's surplus was approximately $33,500,000, consisting of a reserve of $20,000,000 and a general surplus of the remaining approximately $13,500,000.[6] The Request states that its operating surplus will be reduced to approximately $7,000,000 by March 31, 2013.[7]

The Commission's proposed fees, therefore, are intended not only to cover its projected expenses in 2014 to 2016, but also to provide it with a surplus sufficient to increase its "operating reserve", with the ultimate goal of a "general reserve" that is approximately 50% of its annual operating expenses. It estimates that its surplus will reach approximately $30,000,000 by March 31, 2016.[8]

The Commission proposes an annual increase of 7.9% in registrants' participation fees, amounting to a cumulative fee increase of approximately 26% over the next three years, and an annual increase of 15.5% in reporting issuers' participation fees, amounting to an approximately 54% increase over the same period. The cumulative fee increase over the five years ending in 2016 will be approximately 50% for registrants and 150% for reporting issuers.

The IIAC is concerned that the fee increases applicable to registrants, and particularly its members, come at a time of weak business conditions and rising costs that have resulted in many small and medium size registrants losing money on a net basis in recent quarters. While we recognize the impact of the Commission's growing regulatory responsibilities on its expenses, our concerns are exacerbated by the fact that we cannot determine the extent of these expanding regulatory responsibilities, which are not necessarily coincident with expanding markets, or foresee an end to them. In light of these facts and the Commission's authority to prescribe its own fees, strong accountability mechanisms are required with respect to both the Commission's operations and its fee-setting activities.

The following comments on the proposals in the Request reflect these concerns, while recognizing that the Commission plays a necessary and important role in ensuring the integrity of our capital markets in a dynamic international marketplace.

III. Comments on Fee Proposals

A. Participation Fees

1. General

The Request assumes that participation fees are a "modest component" of market participants' overall cost structures and requests comment on whether the changes would alter this assumption. The proposed increases in participation fees to market participants cannot be considered in the isolated context of the Commission's fee schedule but should be viewed in the context of the Commission's expanding responsibilities and increasing expenses. The Commission must also take into account all regulatory costs imposed on market participants,

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[6] *OSC Annual Report 2012*, p. 44 (financial statements).
[7] Request, (2012) 35 OSCB at 7804.
[8] Request at 7804. The Request does not distinguish between its proposed increased reserve and surplus. With the $30,000,000 operating surplus projected in the Request for 2016, its total surplus will be $50,000,000 taking into account its $20,000,000 reserve. The Commission treats this reserve as capital.

including fees they must pay to other securities regulatory authorities such as self-regulatory organizations, stock exchanges recognized by the Commission and other securities regulators in Canada.

The IIAC's members are registered investment dealers who are required by Ontario securities law to be members of the Investment Industry Regulatory Organization of Canada ("IIROC"), are participants in the Toronto Stock Exchange ("TSX"), and many of whom are registered in all or almost all provinces. In 2011-2012, investment dealer members paid IIROC $45,329,000 in membership fees[9] which are used by IIROC to pay its costs of regulating them. Assuming that most of these dealers are registered in all provinces, in 2011 they also would have paid over $3,000,000 in annual registration fees to other securities regulators and approximately $15,420,000 in participation fees to the Commission. In addition, they must pay annual fees to the National Registration Database ("NRD") in order to make required filings with securities regulators.[10]

Under the Proposed Rule, the fees payable by investment dealers to the Commission in 2015 would be approximately $21,105,000 and the increased fees payable by them to the Commission over the three years ending in 2015 would amount to approximately $12,500,000. It is reasonable to expect that the fees paid to IIROC and other regulators will also increase.

The Commission has rejected similar comments made in response to previous proposed fee rules on the basis that IIROC's fees relate to its costs and the Commission's fees relate only to its own costs. While this is true, it does not address the fact that investment dealers must pay fees relating to their regulation by IIROC, the Commission and securities regulatory authorities in other provinces, all of which affect their expenses and are relevant to the impact of the Commission's fees on their business operations. These amounts should be taken into account by the Commission when determining appropriate participation fees for registrants. There is no indication in the Request that this has been done, and responses to prior comments suggest that it has not.

The IIAC is particularly concerned about the potential impact of fee increases on small and medium sized investment dealers in the current market context. In the past year, and especially in the second quarter of 2012, industry revenues and profits have dropped dramatically, as is described in the IIAC's securities industry performance report for this quarter, published in September, a copy of which accompanies this submission as an Appendix. These results reflect adverse market conditions, expenditures required to meet technology and compliance requirements for accessing ATS trading platforms and to address the types of market and regulatory developments that have affected the Commission's own increasing expenditures. In addition, industry members must bear the ongoing costs of compliance with existing and new regulatory requirements.

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[9] IIROC, *Annual Report 2012*, p. 29. Dealer members also paid IIROC additional fees totalling $10,257,000.

[10] As of March 31, 2012, the Commission held $80,521,903 from the NRD's operator, CDS INC. (also the operator of SEDAR and SEDI), of which approximately $37,000,000 relates to the NRD; see *OSC Annual Report 2012*, pp. 37 (MD&A) and 44, 53-54 and 59-60 (financial statements). Fees relating to SEDAR and SEDI are paid to the operator by reporting issuers. These funds represent the accumulated surplus from the operations of the NRD, SEDAR and SEDI and are held in trust for CSA surplus redevelopment.

The Commission's treatment of fees over the past several years has shown recognition of these issues. They continue to be relevant to the increases in fees that the Commission now proposes. The Request states that the Commission "did not consider any alternatives to rule amendments in the development of" its proposed amendments.[11] It behooves the Commission to consider alternative measures that may enable it to cover the costs of its regulatory responsibilities, while taking into account the circumstances of these and other members of our securities industry.

The manner of calculating annual participation fees provides a ready example. The Request attributes the unpredictable nature of the Commission's revenues to both the market and the fact that participation fees have to date been calculated each year based on the annual revenues of registrants and the market capitalization of issuers during the year preceding payment of the fees. To achieve greater predictability with respect to its revenues, the Commission proposes that participation fees in the next three years be based on a reference year, namely, on the revenues of registrants and the market capitalization of reporting issuers in their fiscal year ended prior to May 1, 2012. This change will require reporting issuers and registrants to pay the same participation fee in each of the three years to which the Proposed Rule will apply, except in a few circumstances described in Proposed CP, s. 2.2(2).

In effect the Proposed Rule would impose the risks of the markets on market participants, rather than the Commission. If markets and revenues decline, market participants will pay a higher participation fee than would otherwise have been required. If market activity increases, they will pay less. This new approach may thus result in additional increases in expense to firms that are declining, which will have the effect of magnifying the increases proposed by the Commission.

In the short run this will occur under the Commission's proposal. As the reference year is the fiscal year preceding May 1, 2012, the reference year for most market participants will end in 2011 or the first quarter of 2012, a period preceding the dramatic fall in the second quarter of 2012 described in the Appendix. As market performance was significantly better in 2011 than since, the effect of adopting this reference year will be to establish higher fees for 2013 than under the existing approach and to maintain the same fee base for the succeeding two years. As a result, the Proposed Rule will require market participants to pay higher fees in 2013 that will not reflect their poor performance in the current year and, in fact, will exacerbate it.

The adverse impact from imposing all risks of the market on market participants over the next three years can be reduced while still providing greater predictability for the Commission than under the current regime. The IIAC recommends that participation fees continue to be calculated annually, but that a market participant's annual participation fees should be based on a three-year rolling average of its revenues (registrants) or market capitalization (reporting issuers) during the three fiscal years preceding their due date. Under this approach, a registrant's fees for 2013 would be based on its average revenues for its 2011, 2012 and 2013 fiscal years, the fees for 2014 on average revenues for 2012, 2013 and 2014, and so on.[12] The fees payable in a given year would thus factor in actual results of a poor year, such as the current one, and ameliorate the

[11] (2012) 35 OSCB at 7809.
[12] This results from the December 31 due date for registrants under Proposed Rule, s. 3.1(1). Reporting issuers' participation fees may reflect different years, depending on their year end.

risk of adverse performance to the registrant under the proposed scheme,[13] while enhancing the Commission's ability to predict its annual revenues on the basis of the first two of the three years being averaged. With respect to the proposed fees, the Commission will receive information from registrants on the participation fees they will owe for this year by December 1, 2012.[14] A three-year rolling average basis for participation fees would provide a fair balance between the Commission's need for predictability with respect to its revenues and the potential burden on registrants and other market participants.

2. No Passing on Participation Fees?

The Request states that the Commission takes the position that "capital markets participation fees should be paid by, and borne by, those who are charged" them. The Proposed CP, s. 4.1 simply states that capital markets participation fees represent the costs of registrants and unregistered exempt international firms participating in Ontario's capital markets "and should be paid and borne" by those paying them.

Fees paid by registrants and other market participants to securities regulators are part of the costs of carrying on their business. Participation fees are no different in this respect than activity fees paid by a registrant or fees an investment dealer is required to pay annually for mandatory IIROC membership and use of the NRD. All are business expenses that must be factored into a registrants' expense and profit ratios when establishing their own fee models.

The generality of the Commission's stated policy brings into question their entitlement to do this with participation fees. If this is its intent, it is impractical and misguided.

In any event, the statement should be deleted from the Proposed CP. If the Commission decides to prohibit this treatment of participation fees, the prohibition should be made clear and the reasons for it should be explained.

Moreover, if adopted, such a prohibition should not be limited to registrants and certain exempt firms. The Commission proposes, as well, to impose participation fees on specified regulated entities, namely, recognized stock exchanges, alternative trading systems, clearing agencies, and trade repositories. The IIAC's members are generally participants in these entities and are required to pay fees to them. In addition, reporting issuers must pay listing fees to exchanges that list their securities. Any of the participation fees charged to an exchange or clearing agency are therefore likely to be passed on indirectly to these market participants. If the proposed policy with respect to passing on participation fees is adopted for registrants, it should apply equally to regulated entities.

Finally, if the Commission determines to prohibit registrants from passing on participation fees, the prohibition should be embodied in a rule like *National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registrant Obligations*, and not left to an imprecise statement in a policy.

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[13] Although fees would increase if the third year is better than the two preceding it, there would be less risk of adverse impact on a registrant when its revenues are increasing.
[14] See OSC Rule 13-502 – Fees, s. 3.2.

B. Activity Fees and Alternative Considerations

1. General

The Commission's characterization of participation fees as intended "to serve as a *proxy* for the market participant's use of the Ontario capital markets" implicitly recognizes that these fees, unlike activity fees, are not equivalent to payment for a service. Most issuers and registrants do not receive a direct benefit from the Commission's policy development, rulemaking and enforcement activities. Unlike the percentage fee charged by other provinces for funds raised through a distribution, participation fees have no direct relation to the payer's activities. For example, a reporting issuer with a large market capitalization may not have to go to the market to raise funds; any benefits it and others like it receive from the Commission's regulatory activities derive indirectly from enhancement of market confidence generally, including the market for the issuer's shares, and from the issuer's potential ability to raise funds in public and private markets through distributions of its shares, should it choose to do so in the future. Similarly, any benefit to registrants will come from investors' willingness to trade in a well-regulated market or to trust registrants who are subject to the regulatory regime. Such benefits flow in large part from the Commission's efforts to protect investors through adoption of rules and policies, compliance reviews and investigation and enforcement proceedings. By enhancing confidence in capital markets, its activities are intended to benefit the overall economy by facilitating the raising of capital by entrepreneurs and economic development generally.

Any such benefits from the Commission's regulatory activities thus constitute a public good rather than a direct benefit to any market participant. The use of participation fees to fund such public goods is equivalent to the imposition of a tax on registrants, reporting issuers and other market participants with the proceeds allocated to the Commission's regulatory activities.

The burden of paying for the Commission's regulatory activities is thus not borne by all of the intended beneficiaries, that is, by members of the public generally. This provides another reason for the Commission to consider carefully both the impact of any proposed fee increases on the market participants who must bear them and the costs and benefits of the regulatory initiatives and practices that necessitate such increases.

It suggests, as well, that the Commission should consider alternatives to increasing participation fees imposed only on market professionals and reporting issuers in view of the fact that the incidence of such fees, even if not individually significant, may accentuate the difficulties faced by market participants in periods of market or business decline.

Recognition of this fact should direct the Commission's attention to the use of activity fees as a means of funding its activities to a greater extent than it now does. When the Commission first proposed the use of participation fees in 2003, it estimated that these fees would comprise approximately 70% of its expenses with activity fees providing approximately 25%.[15] Since then, the proportion of participation to activity fees has increased with participation fees constituting over 80% and activity fees in most years approximately 15% to 16% of the fees paid

[15] *OSC Annual Report 2003*, p. 36.

to the Commission. In 2012, the percentages were approximately 84.2% from participation fees and approximately 12.6% from activity fees.

The Request states that the Commission bases its activity fees on the actual average cost of performing the activities in question. Any such measurement is necessarily imprecise. Consideration should be given to requiring a reasonable activity fee that contributes to the Commission's overall funding to a greater degree, as is currently done in all other provinces with self-funding, and reduces the burden of participation fees on registrants and reporting issuers. A more flexible use of activity fees would relate more directly to actual use of the capital markets by the payer.

In addition, the Commission should give consideration to utilizing activity fees to help it achieve specific regulatory goals and to address directly the costs of activities which are now not covered by the fee schedule but which affect Commission resources. For example, it has been suggested that high frequency trading might be addressed by imposing a tax or fee on such trading in certain circumstances. While the IIAC does not recommend this at this time, the suggestion illustrates the potential use of fees for regulatory purposes. Any such use would affect other aspects of the Commission's fee model and possibly allow lower participation fees.

2. Takeover Bids and Proxy Contests: Poison Pill and Other Hearings

Appendix C to the Proposed Rule provides for fees to be paid on an application for relief, approval or recognition, other than an application for registration, under a provision of Ontario securities law that is not specifically listed in the activity fee schedule (Appendix C, para. E(1)).[16] The applications covered are generally applications for exemptions ("relief"), approval or recognition. This fee provision does not apply to applications brought by interested persons under subsection 104(1) or section 127 in the course of a takeover bid or proxy contest. The initial version of paragraph E(1) in 2003 referred to these provisions, but the references were removed in 2006, corresponding to Commission practice which does not require payment of a fee for such applications.

The common practice followed in connection with such applications is that an interested party, such as an offeror, will write a letter to Commission staff ("Staff") explaining the issues in question and requesting Staff to bring an application before the Commission, for example, to issue a cease trade order to prevent the operation of a poison pill rights plan, which invariably leads to responding written submissions to Staff from the target issuer and negotiations with Staff about any action to be taken. Over the years, Staff have attempted to have the parties resolve the issues themselves, without the need for a hearing, in part to reduce a burden on Commission resources. If Staff refuse to bring an application, an interested person may bring the application itself under either subsection 104(1) or section 127 of the Act, or both, as occurs with respect to poison pills.

In the past year, Staff has publicly disclosed that it is considering a new policy for poison pill rights plans that would remove the need for such hearings, again, in part, because of the

[16] Paragraph E(1) excludes from its coverage items listed in paragraphs E(2), E(3), E(4), E.1 and E.2, but fails to refer to the new paragraph E(2.1); and paragraph E(1)(v) continues to refer to subparagraph E(4)(b) rather than the renumbered subparagraph E(4.1)(b). These cross-references should be corrected.

perceived effect on Commission resources, both at the Staff and Commission levels.[17] Without here entering a discussion of the merits of any such change from a legislative policy, takeover-bid or shareholder-protection perspective, it is worth noting that one method of addressing Commission resources is through charging the applicant or other party an amount that covers the Commission's costs, the very premise of the Request and Proposed Rule.

The Commission has authority to order a person or company whose affairs are the subject of a hearing to pay the costs incurred by the Commission relating to the hearing, if it finds that the person has not complied with Ontario securities law or failed to act in the public interest (Act, s. 127.1(2)). It commonly makes cost recovery orders after an enforcement hearing under section 127, but it has not adopted a practice of making such cost orders in hearings relating to the conduct of a takeover bid or a proxy contest. In any event, it cannot make a cost order if the parties resolve the matter without a hearing.

The Commission should consider requiring a fee to be paid for applications of this nature made to Staff or the Commission by a party to a takeover bid or proxy contest. As with activity fees, the fee to be charged in connection with such an application could be based on the average time spent by Staff in connection with such applications, possibly with a variable cost-based additional fee if more than average staff resources are required.

More specifically, the Commission should consider imposing an activity fee for applications made to Staff under section 104(1) and/or section 127 with respect to an ongoing takeover bid or proxy contest, which fee would cover any application that is subsequently brought to the Commission by an interested person where Staff determines not to initiate a proceeding. The fee should be based initially on the average time spent by Staff in connection with such applications. Although the amount of such a fee would likely be greater than the fees proposed under paragraph E(1), which range from $4,500 to $9,000, any fee so charged would not be significant in the context of a takeover bid or proxy contest.[18] Charging a fee for an application to Staff, in the form of a letter or otherwise, would recognize the practice followed in these cases. Such fees might reduce participation fees while also alleviating the resource burden perceived by Staff and removing one of the reasons for Staff's consideration of proposed changes to the Commission's current approach to resolving issues raised by poison pill rights plans during a takeover bid.

3. Stock Exchanges, Clearing Agencies and ATSs

The proposed fee schedule would impose new activity fees on regulated entities that operate markets and clearing facilities to reflect more fully the expenditure of Commission resources required to deal with applications for recognition or variations of recognition orders, particularly ones that involve significant transactions. An application for recognition as an exchange or clearing agency would no longer require the $4,500 fee for other applications, including an application to vary a recognition order, but would be replaced by a fee of $100,000.

[17] The Commission's 2012-2013 Statement of Priorities lists as an investor-protection matter that it will reconsider current regulatory requirements governing poison pill rights plans "to reflect recent market and governance developments," but without identifying the specific developments; (2012) 35 OSCB at 5932.

[18] This analysis does not apply to other types of application. No fee should be charged, for example, for an application to review a Staff decision or a decision of a self-regulatory organization or stock exchange.

The application fee for an exemption from recognition by such an entity would be $75,000. If the application involves a structural change to an exchange or clearing agency, such as a merger, acquisition of a major part of its assets, or major reorganization or restructuring, an additional $100,000 fee would have to be paid. An initial filing by a new ATS would require a fee of $50,000.

In all such cases, the Commission must either charge additional fees, based on Staff time expended at an hourly rate of $140, if the cost of the work on a particular filing exceeds $300,000, or request the Director to consider whether an exemption from paying some or all of the additional fees should be granted (Proposed Rule, s. 4.1.1). If Staff costs go above the $300,000 threshold, the exchange, clearing agency or ATS may be required to pay all the Commission's costs exceeding the amount of its initial fee. The Proposed CP outlines a procedure for invoicing the applicant on an interim basis, after sending a draft invoice and providing an opportunity to make written submissions with respect to it.

The Request says this variable cost-based activity fee would not apply frequently, only in "very special circumstances" like the recently completed "Maple recognition", but does not explain the reason for selecting the $300,000 threshold. On a transaction like the Maple Group's acquisition of the TMX, the Commission's processing costs would have to exceed the initial $200,000 fee by at least $100,000 before the variable fee applies. In the case of a recognition application that does not involve a structural change, the Commission's processing costs would have to exceed the initial fee by $200,000. In the case of an ATS, the review of the ATS's initial filing would have to involve additional processing costs of over $250,000. In view of the threshold, it seems unlikely that the variable cost-based fee would apply to a simple recognition application or to an ATS filing. Nor would it apply to a non-structural application to vary a recognition order, for which additional costs of over $295,500 would have to be incurred.

Allowing for an expenditure of Staff time on a specific application that exceeds the Staff time reflected in the basic activity fee without additional charges to the applicant seems reasonable, but the amounts required to reach the $300,000 threshold seem too high for the principle implicit in a variable cost-based fee. Although selection of any threshold amount has arbitrary elements, additional costs of no more than $50,000 with respect to such applications might reasonably trigger the special fee.[19]

As the amount of the proposed activity fee itself suggests, ATSs may be in a different position than exchanges and clearing agencies. A variable fee might discourage an ATS from applying for registration because of the potential costs. If this occurs, it would be inconsistent with the Commission's historical encouragement of the competition that ATSs may provide to recognized exchanges, especially in light of the Maple Group's acquisition of the TMX. The Commission might therefore consider withdrawal of the variable cost-based fee for ATS filings.

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[19] Retaining the $4,500 fee for applications to vary a recognition order, on the other hand, seems low. It would be expected that such applications, even those not involving a structural change, would commonly require more time than, for example, an application by a reporting issuer to vary an exemption order. Consideration might be given to increasing the basic fee for an application under section 144 of the Act relating to a recognition order. Alternatively, a variable cost-based fee with a lower threshold might be considered for such applications.

Finally, Part 6 of the Proposed CP outlines a procedure for invoicing exchanges, clearing agencies and ATSs for the special activity fee. Staff will provide a draft invoice or interim invoice to an applicant for comment before a final invoice is issued. The purpose of issuing a draft invoice is to give an applicant an opportunity to advance a reason why the fee on the draft invoice should be lowered. The Proposed CP, s. 6.6 contemplates that any such submissions will be in writing and provides that the Director and the Commission may evaluate the fairness and appropriateness of amounts in the draft invoice when considering whether to lower the fee reflected in it, "giving consideration to any submission made by the filer" in response to a draft invoice and to specified factors.

When the $300,000 threshold has been crossed, the Proposed Rule, s. 4.1.1(1) requires the Commission either to issue one or more invoices for additional fees *or* to request the Director to consider an exemption. The Proposed CP states that approval of an invoice by both the Director and the Commission will be required (s. 6.5). It does not explain, however, how the Commission will grant its approval or who will do so on its behalf, for example, whether it will be a commissioner, a second Director or a member of Staff. Nor does it provide for an opportunity by the applicant to appear and be heard by either the Director or the Commission otherwise than through its written submission.

It would be desirable to provide an applicant with an opportunity to appear before a Director and/or the Commission to make oral submissions with respect to such matters. At the least, the process that the Commission intends to follow when considering a draft invoice should be explained more fully.[20]

IV. Commission Accountability

In OSC Notice 11-767 concerning the Commission's Statement of Priorities for its financial year ending March 31, 2013, the Commission acknowledged the importance of its being accountable and agreed that increased accountability requires "further clarity and transparency."[21] The Commission's accountability is particularly important in view of the fact that it is an independent, self-funded regulatory agency exercising legislative powers through rulemaking, including prescribing the fees to be paid to it, and developing policy through its administration of the Act.

The Commission thus has authority to determine the fees it requires to enable it to fund its regulatory goals. Accountability is all the more important in view of the market developments that inform the Commission's increasing and projected expenses and, concomitantly, its proposed fee increases. There is no reason to expect that the Commission's regulatory expansion and the need for further fee increases will not continue.

The Act provides a number of accountability mechanisms. Commission rules, including rules imposing fees, are subject to disapproval by the Minister of Finance (the "Minister"). The

[20] The Proposed CP also does not address the circumstances in which Staff anticipates that instead of issuing an invoice, it will request the Director to consider or reconsider granting an exemption with respect to a variable cost-based fee; see Proposed Rule, s. 4.1(1).

[21] *OSC Notice 11-767: Notice of Statement of Priorities for Financial Year to End March 31, 2013*, (2012) 35 OSCB at 5927 and 5932-33. The Commission included improvement of its accountability as a key priority and said it will finalize key performance indicators to better track outcomes of its activities and report more clearly on its progress.

Commission must prepare and submit to the Minister an annual statement of priorities which must outline generally, by category, its significant anticipated expenditures for its next financial year, and it publishes annually a report on its implementation of its prior statement of priorities.[22] It must also prepare an annual report, including audited financial statements, which must be provided to the Minister and tabled in the Legislature. In addition, the Commission and the Minister must enter a memorandum of understanding ("MOU") every five years, setting out their roles and responsibilities, the Commission's accountability relationship with the Minister and the Government, and its responsibility to provide the Minister with specified information, including its annual business plan, operational budget and plans for changes in its operations, and any other information the Minister requires. The Minister may also require the Commission to provide information about its activities, operations and financial affairs at any time. The current MOU, which was signed in November, 2009, describes the relationship between them and summarizes the Commission's statutory obligations to the Minister and current communication protocols in an appendix.[23]

The MOU generally requires the Commission to follow accountability procedures applicable to other agencies of the Ontario government. Such other agencies, however, are not self-funding, and they do not prescribe the fees that fund their operations. Having to obtain a budget allocation from the Consolidated Revenue Fund, determined by the Government, may itself impose a form of discipline that does not exist with self-funding.

Moreover, the accountability mechanisms in the Act and the MOU are internal to the Minister and the Ministry. These procedures lack transparency. For example, the Commission does not publish the business plan and budget that it provides to the Minister. In the IIAC's view, additional means are necessary to ensure transparency, and accountability, with respect to the Commission's adoption of fees, its budgets, and the activities to which they relate. Although the Commission's statements of priorities and annual reports contain some of this information, it is not sufficiently detailed.[24] At a minimum, the Commission should make public the business plan and budget and other documents it sends to the Minister.

The IIAC is also of the view that accountability of the Commission requires it to justify publicly its regulatory performance and further needs in connection with its annual budget and business plan. The IIAC believes that the Commission should be accountable to the Legislature both through the Minister and through an open process that permits a thorough public review of its priorities, practices and achievements by a standing committee of the Legislature that conducts annual or biannual reviews of the Commission's activities, including its budgets and operational plans. The IIAC recommends that the Commission and the Minister consider establishing such an accountability process. In view of this recommendation, we are sending a copy of this submission to the Minister as well as the Commission.

The IIAC appreciates the opportunity to comment on the Commission's Request. We should be pleased to discuss any of the issues raised in this submission.

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[22] See, e.g., *Report on the Statement of Priorities for fiscal 2011–12*.

[23] See *Memorandum of Understanding dated November 5, 2009*, (2009) 32 OSCB 9984 (December 4).

[24] Compare the information provided by the U.S. Securities and Exchange Commission ("SEC") in justification of appropriations requested annually from the U.S. Congress; see, e.g., SEC, *In Brief FY 2013 Congressional Justification* (February 2012). These reports and others published by the SEC are available at www.sec.gov/about/secreports.shtml.

List of Recommendations

		Page Nos.
1.	Strong accountability mechanisms are required with respect to both the Commission's operations and its fee setting activities.	4
2.	The Commission should make public the annual business plan and budget and other documents it provides to the Minister.	13
3.	The Commission and the Minister should consider establishing an accountability process that requires the Commission to justify publicly its regulatory performance and further needs in an open process before a standing committee of the Legislature that conducts an annual or bi-annual review of its activities.	13
4.	When considering participation fees, the Commission should take into account all regulatory costs imposed on registrants, including fees they must pay to other securities regulatory and self-regulatory authorities and to other related organizations and should consider alternative measures to cover its costs.	5-6
5.	Participation fees should be based on a three-year rolling average of registrants' revenues and reporting issuers' market capitalization.	6-7
6.	Registrants should not be prohibited from treating participation fees as business expenses and factoring them into their fee models.	7
7.	If the Commission decides to prohibit this treatment of participation fees, the prohibition should be made clear and the reasons for it should be explained.	7
8.	If the Commission prohibits registrants from passing participation fees on, the prohibition should also apply to stock exchanges, clearing agencies, ATSs and trade repositories.	7
9.	If the Commission determines to prohibit registrants from passing on participation fees, it should impose the prohibition in a rule, not a policy.	7
10.	The Commission should increase the proportion of its revenues from activity fees and reduce the proportion obtained through participation fees, as activity fees relate more directly to actual use of the capital markets by those who pay them.	8-9

11.	The Commission should consider using activity fees to help it achieve specific regulatory goals.	9
12.	The Commission should require an activity fee to be paid for strategical applications to Staff by a party in the course of a takeover bid or proxy contest under sections 104(1) or 127 of the Act, for example, to defeat a poison pill defence.	9-10
13.	The $300,000 trigger for a variable cost-based activity fee payable by stock exchanges and clearing agencies should be reduced to $50,000.	11
14.	ATSs should not be subject to a variable cost-based fee.	11
15.	An applicant that is subject to a variable cost-based fee should be given an opportunity to appear and make oral submissions with respect to the variable fee.	12
16.	The process the Commission intends to follow when considering a draft invoice relating to a variable fee should be explained more fully.	12
17.	The Commission should correct subparagraph E(1) of Appendix C of its fee schedule by referring to subparagraphs E(2.1) and E(4.1(b).	9 note 16

APPENDIX

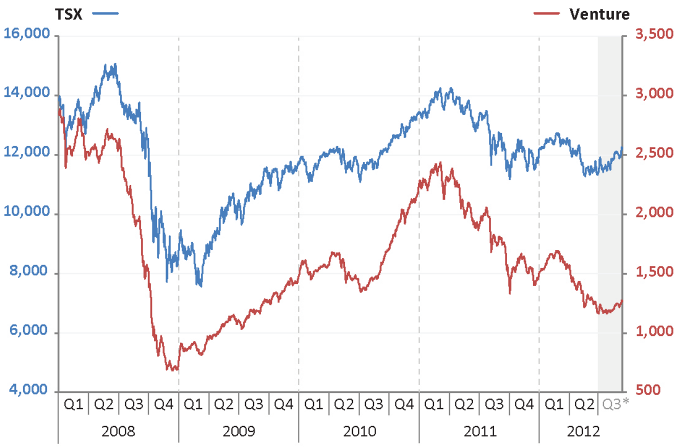
2012 Q2 Securities Industry Performance

Battening Down the Hatches to Weather the Storm

Another body blow to the industry

There were few green shoots for the Canadian investment industry this spring. In the just completed second quarter April-June this year, the industry turned in the worst results in at least a decade and even longer. Industry operating profit totaled just $510 million, a 58% drop from the previous quarter. Year-over-year profit, measured for the latest six months, was down 36%, from already depressed levels. The steady, jagged decline in the TSX Composite Index from its February 2012 peak, and an even steeper decline in the TSX Venture Index – triggered by the never-ending bad news out of Europe – cooled out retail and institutional share trading, and put a damper on equity financing and M&A activity.

Slide in Equity Prices - February Through July, 2012

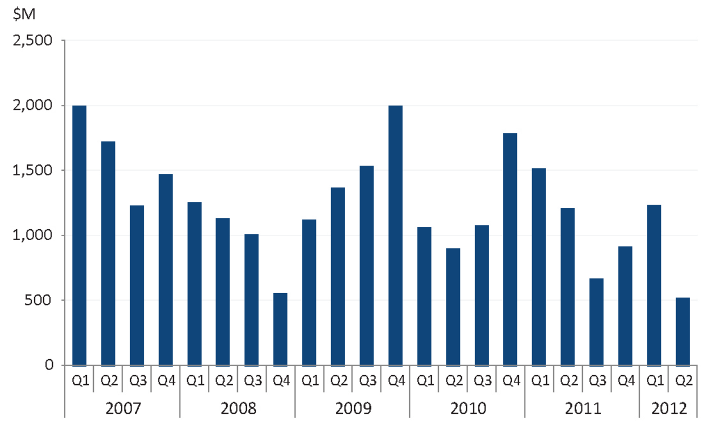


Source: S&P

Tepid market conditions hit everyone

All firm groupings in the industry were caught by weak market conditions. The integrated dealers, with a full complement of business and a national base, fared better than the boutique firms. But even for integrated dealers, operating profit fell to $520 million, almost half the previous quarter level. The second quarter earnings collapse broke a promising steady improvement in results over the previous two quarters. The integrated firms have benefited from solid fixed income trading results, boosted less from active trading and more from a robust "carry trade" business reflecting the wide gap between lending and borrowing rates in domestic and cross-border transactions. Similarly, these rate spreads have contributed to strong gains in the retail intermediation of client cash balances (net interest income) at dealers. Despite fundamental weaknesses in the wealth management and investment banking businesses, these integrated firms have enough scale and breadth of business to weather the storm.

Operating Profit - Industry



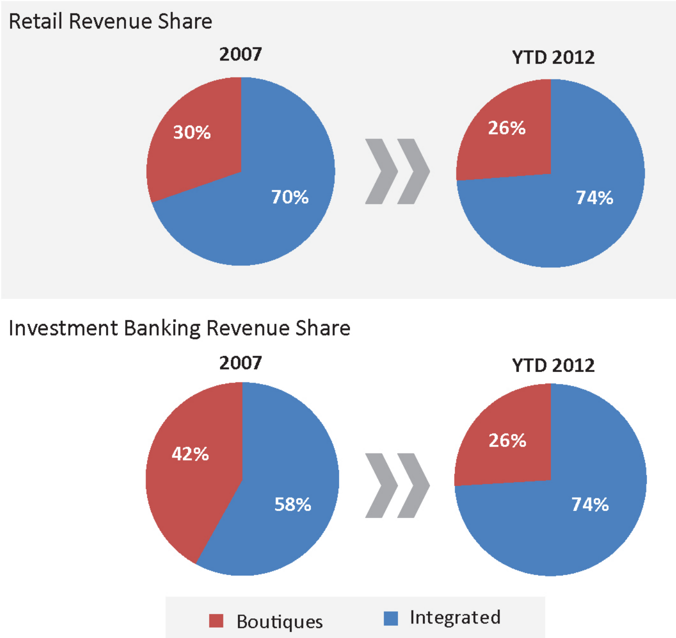
Source: IIAC

Boutiques hit by 3 Cs: (Market) Conditions, Competition and Costs

The institutional and retail boutiques, some 180 firms, are under severe pressure from market conditions, intense competition and relentless cost demands from technology and regulatory compliance. Both the institutional and retail firm groupings turned in poor results in the latest quarter. For the first time ever, the roughly 80 institutional firms, as a group, barely broke even in the quarter. But poor performance has been the hallmark for some time – with quarterly operating profit averaging about $200 million in the past year and a half, and just $300 million in the two years following the 2008 financial crash. The institutional group eked out an ROE of 6% last year on roughly $4 billion of equity capital, far below returns in the pre-2008 period. The paucity of sustained corporate financings, stiff competition from the integrated firms, and firms in the exempt marketplace, and a heavy and increasing cost structure have plagued earnings results. The retail boutiques have not fared much better in the past four years. The roughly 110 self-clearing and introducer firms chalked up consecutive operating losses in the last two quarters, the first time the grouping has run up losses. Quarterly operating profit averaged only $55 million in the full year 2011, and roughly $50 million a quarter through 2009-10. Profit in the past year or so was a third of the levels in the 2006-07.

At any point in time, the earnings performance of firms in the boutique sector has been divergent, reflecting different business focus, and strategic management. As conditions have worsened this year, this earnings divergence has widened. In the second quarter, more than half the firms in the institutional/retail groupings are now losing money on an operating basis or break-even position – twice as many as just a year ago.

Integrated Firms Encroach on Boutiques



Source: IIAC

So where do we go from here? Have we reached rock bottom and about to turn the corner? The industry has benefitted from a summer rally, but not enough to make much difference. The pace of common equity financings picked up modestly in August, and anecdotal evidence indicates modest gains in retail earnings from increased brokerage and higher fee income. But unless stock markets soar in the fourth quarter, an unlikely occurrence even with improving news out of Europe and the recent Q3 announcement at the Fed, industry earnings performance for the year will fall short of last year's mediocre results.

The strategic response – cutting costs and building scale

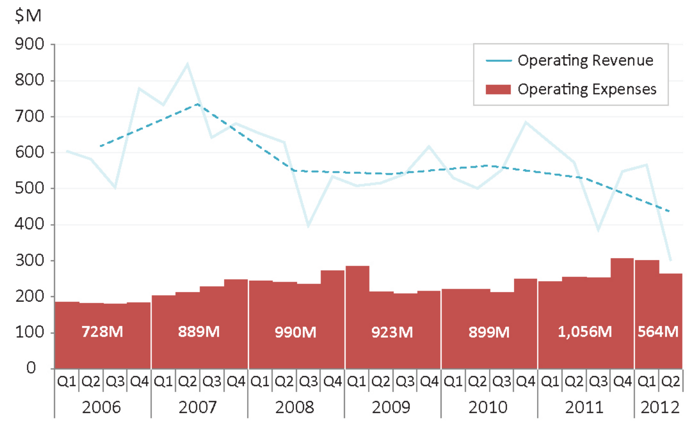
Smaller institutional firms – building scale or scaling back

The smaller institutional firms are at an important crossroads. These 80 firms, differing in size and institutional focus, have held on despite persistently weak markets and eroding revenues. Revenues have steadily eroded for the institutional group in the past four years. For example, quarterly gross revenue averaged about $430 million in the latest two quarters (January-June 2012), down from a quarterly average of $550 million through 2009-11, and well below peak quarterly revenues of $670 million in the 2006-07 bull market. Moreover, the institutional and retail boutiques have lost market share of the investment banking business. In the four years since the financial crash, the investment banking revenue share at boutique firms has fallen nearly in half from a 42% share in 2007 to 26% by June 2012.

In the bull market years, these boutiques rapidly built up equity trading infrastructure and research capacity to compete for underwriting and corporate merger and acquisition business. Costs also reflected heavy outlays to meet the technology and compliance requirements for trading interconnectivity to the new ATS trading platforms. Annual operating costs jumped to roughly $900 million by the end of 2007, just less than a 50% increase in less than two years. While these costs have leveled out in the subsequent period 2008-12, annual revenues have fallen nearly one-third, devastating profitability.

Narrowing Profit Margins - Institutional Firms

Operating Revenue and Expenses



Source: IIAC

These firms are engaged in various strategies. First, seeking acquisitions or compatible partners to expand business on one institutional platform, building scale and lowering unit costs. Second, the contrary strategy of retrenchment – cutting operating costs on the existing platform and scaling back the platform, particularly in terms of the trading and research operations. A more extreme version of the latter approach will be to jettison trading and research altogether, and focus on exempt market financings under the EMD registration.

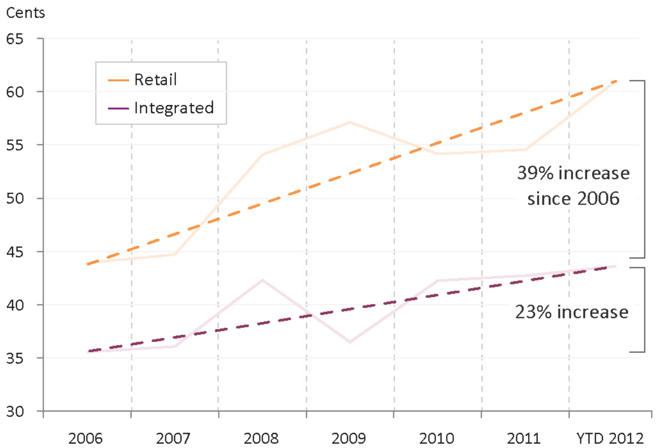
Retail boutiques – some breathing room, but a need to deal with scale

The retail boutiques, both the self-clearers and introducing firms, are confronted with similar structural challenges. While these firms have not undergone the same infrastructure expansion as the institutional boutiques, they have encountered significant cost pressures, from technology demands and regulatory compliance.

These firms, however, have some breathing room. Competition among the carrier brokers, with the entry of one large player, lowered costs in the last couple of years. Further, the regulatory burden, notably expanded requirements of the Client Relationship Model, will be phased in gradually. And finally, compliance technology offered by the carrier brokers may lower some net costs for introducer firms.

The immediate priority for the smaller self-clearer and introducer firms has been to cut operating costs where possible, tighten advisor pay-out ratios and set minimum performance standards for brokers, migrate to carrier platforms and expand carrier services to include compliance and other financial services. None of this will alleviate the scale problem for small firms, or the expanding compliance burden. And carrier broker fees are substantial.

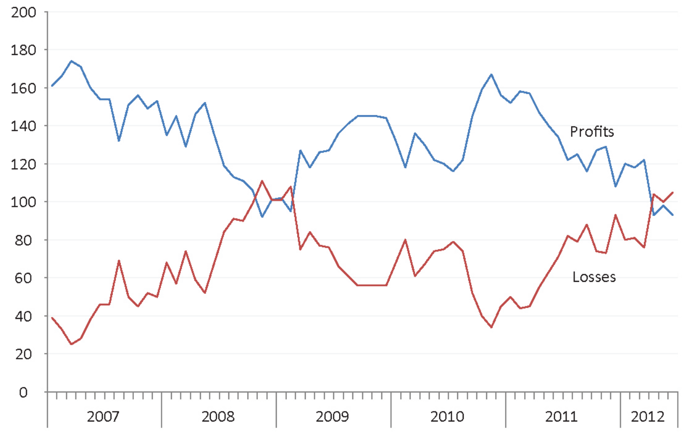
The Advantage of Scale
Non-compensation Operating Cost Per Dollar Revenue
Integrated v. Retail Boutiques



Source: IIAC

The retail firms have also taken steps to expand size and scale. The retail boutiques face an acute scale problem. Per unit non-compensation operating costs are significantly higher at the small firms than the integrate firms and rising at a faster rate. These per unit costs have risen at an average annual rate of about 5% in the past five years, an upward trend that is unsustainable. Firms are aggressively adding advisors – matching corresponding advisor interest moving to larger, more diversified shops, and seeking out merger and amalgamation opportunities.

Number of Firms with Profits and Losses



Source: IIAC

The small retail firms have also focused on the advisor practice to build revenues. Firms recognize that strategic and deep client engagement placing the advisor at the epicenter of the client's financial affairs can generate increased portfolio activity and client referrals, as well as stabilize the existing client base. Further, firms will continue to offer fee-based accounts to complement the traditional brokerage business, and expand product line and services such as financial and estate planning to boost revenue.

Conclusion: New strategies – vigorous enough, quick enough?

The revenue-boosting and cost strategies underway among the smaller firms in the industry will have a positive effect on their bottom line. We sense they are being implemented at an accelerated pace, with increased, if resigned acceptance that a sustained market recovery is not around the next corner. The concern would be that these remedial steps have come too late for some firms, and have not been taken vigorously enough to counteract the relentless market and competitive pressures. The result could be more pronounced structural adjustment and industry dislocation than would otherwise be the case.

Industry

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	198	198	205	0.0%	-3.4%	201	201	200	202	0.0%	0.5%	-1.0%
Number of employees	40,267	40,215	40,657	0.1%	-1.0%	40,427	39,917	39,894	40,836	1.3%	0.1%	-2.3%
Revenue												
Commissions	1,238	1,430	1,442	-13.4%	-14.1%	5,817	5,631	5,052	5,592	3.3%	11.5%	-9.7%
Mutual fund only commissions	527	556	546	-5.3%	-3.6%	2,156	1,950	1,605	1,860	10.6%	21.5%	-13.7%
Investment banking	709	982	1,161	-27.8%	-38.9%	3,977	4,029	3,915	3,077	-1.3%	2.9%	27.2%
New issues equity	313	560	611	-44.0%	-48.7%	2,165	2,234	2,356	1,580	-3.1%	-5.2%	49.1%
New issues debt	228	174	208	31.0%	9.5%	826	809	653	483	2.1%	23.9%	35.2%
Corporate advisory fees	168	248	341	-32.4%	-50.9%	986	986	906	1,014	0.0%	8.8%	-10.7%
Fixed income trading	317	343	229	-7.7%	38.1%	1,064	1,173	2,109	1,045	-9.3%	-44.4%	101.8%
Equity trading	-191	109	34	-275.3%	-665.1%	-1	267	459	-11	-100.5%	-41.8%	4272.7%
Net interest	286	293	355	-2.2%	-19.4%	1,376	1,054	914	1,894	30.5%	15.3%	-51.7%
Fees	785	788	758	-0.3%	3.6%	3,094	2,721	2,385	2,624	13.7%	14.1%	-9.1%
Other	180	276	185	-35.0%	-2.9%	810	1,004	1,473	371	-19.4%	-31.8%	297.0%
Operating revenue	3,324	4,220	4,164	-21.2%	-20.2%	16,136	15,878	16,306	14,593	1.6%	-2.6%	11.7%
Operating expenses[1]	1,787	1,873	1,813	-4.6%	-1.4%	7,355	6,825	6,555	6,528	7.8%	4.1%	0.4%
Operating profit	510	1,227	1,200	-58.4%	-57.5%	4,273	4,789	5,987	3,914	-10.8%	-20.0%	53.0%
Net profit (loss)	279	701	616	-60.3%	-54.8%	2,036	2,395	2,869	1,875	-15.0%	-16.5%	53.0%
Shareholders' equity	15,915	15,420	15,619	3.2%	1.9%	15,269	16,988	15,225	13,507	-10.1%	11.6%	12.7%
Regulatory capital	33,664	33,085	31,393	1.7%	7.2%	30,383	31,647	29,559	27,461	-4.0%	7.1%	7.6%
Client cash holdings	37,366	37,679	37,139	-0.8%	0.6%	39,304	37,952	36,816	33,677	3.6%	3.1%	9.3%
Client debt margin outstanding	13,667	14,408	14,469	-5.1%	-5.5%	13,458	13,731	11,048	8,846	-2.0%	24.3%	24.9%
Productivity[2] ($ thousands)	330	420	410	-21.3%	-19.4%	399	398	409	357	0.3%	-2.7%	14.4%
Annual return[3] (%)	**7.0**	**18.2**	**15.8**	**-11.2%**	**-8.8%**	**13.3**	**14.1**	**18.8**	**13.9**	**-0.8%**	**-4.7%**	**5.0%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Integrated firms

Firms that are national in scope and have extensive retail and institutional operations; includes dealers of the six major chartered banks.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	11	11	11	0.0%	0.0%	11	11	11	11	0.0%	0.0%	0.0%
Number of employees	25,720	25,675	25,069	0.2%	2.6%	25,595	24,955	25,131	25,973	2.6%	-0.7%	-3.2%
Revenue												
Commissions	869	1,000	966	-13.1%	-10.1%	3,921	3,767	3,384	3,675	4.1%	11.3%	-7.9%
Mutual fund only commissions	416	435	415	-4.4%	0.1%	1,654	1,471	1,226	1,414	12.4%	20.0%	-13.3%
Investment banking	525	727	797	-27.8%	-34.2%	2,726	2,566	2,598	1,874	6.2%	-1.2%	38.6%
New issues equity	234	418	382	-43.9%	-38.6%	1,390	1,311	1,587	967	6.0%	-17.4%	64.1%
New issues debt	187	139	171	34.6%	9.8%	699	682	546	405	2.5%	24.9%	34.8%
Corporate advisory fees	103	170	245	-39.4%	-57.9%	637	573	465	502	11.2%	23.2%	-7.4%
Fixed income trading	289	291	194	-0.9%	48.8%	800	960	1,690	782	-16.7%	-43.2%	116.1%
Equity trading	-91	104	-31	-187.6%	-195.3%	25	38	332	106	-33.5%	-88.6%	213.2%
Net interest	236	248	305	-4.7%	-22.5%	1,165	906	790	1,488	28.6%	14.7%	-46.9%
Fees	590	580	565	1.7%	4.4%	2,189	1,994	1,764	1,877	9.8%	13.0%	-6.0%
Other	116	122	107	-5.2%	7.8%	456	415	1,233	-1	9.9%	-66.3%	n.m.
Operating revenue	2,534	3,072	2,905	-17.5%	-12.8%	11,283	10,645	11,792	9,801	6.0%	-9.7%	20.3%
Operating expenses[1]	1,202	1,242	1,186	-3.2%	1.4%	4,818	4,497	4,300	4,145	7.1%	4.6%	3.7%
Operating profit	520	947	905	-45.1%	-42.6%	3,212	3,127	4,782	2,722	2.7%	-34.6%	75.7%
Net profit (loss)	306	527	544	-41.9%	-43.8%	1,801	1,610	2,422	1,502	11.9%	-33.5%	61.3%
Shareholders' equity	10,776	10,479	10,718	2.8%	0.5%	10,475	11,585	10,029	8,637	-9.6%	15.5%	16.1%
Regulatory capital	24,259	24,662	22,316	-1.6%	8.7%	22,155	22,882	21,372	19,334	-3.2%	7.1%	10.5%
Client cash holdings	31,733	32,047	30,986	-1.0%	2.4%	33,088	31,677	31,451	28,157	4.5%	0.7%	11.7%
Productivity[2] **($ thousands)**	394	479	464	-17.7%	-15.0%	441	427	469	377	3.3%	-9.1%	24.3%
Annual return[3] **(%)**	**11.4**	**20.1**	**20.3**	**-8.8%**	**-8.9%**	**17.2**	**13.9**	**24.1**	**17.4**	**3.3%**	**-10.3%**	**6.8%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Institutional firms

Firms that generate most of their revenues from servicing institutional clients or through capital market operations.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	80	79	79	1.3%	1.3%	78	74	72	69	5.4%	2.8%	4.3%
Number of employees	3,279	3,263	3,197	0.5%	2.6%	3,108	2,793	2,801	2,926	11.3%	-0.3%	-4.3%
Revenue												
Commissions	141	166	167	-15.3%	-15.8%	693	655	623	777	5.7%	5.1%	-19.8%
Investment banking	140	183	271	-23.2%	-48.2%	912	1,082	1,052	938	-15.7%	2.9%	12.2%
New issues equity	54	87	159	-38.2%	-66.2%	523	634	568	438	-17.5%	11.6%	29.7%
New issues debt	26	23	18	15.0%	43.0%	60	58	51	42	3.7%	13.7%	21.4%
Corporate advisory fees	60	73	94	-17.3%	-35.4%	329	390	433	458	-15.6%	-9.9%	-5.5%
Fixed income trading	23	33	0	-29.4%	n.m.	179	122	249	94	46.7%	-51.0%	164.9%
Equity trading	-92	-5	71	-1852.1%	-228.4%	-44	145	46	-61	-130.1%	215.2%	175.4%
Net interest	17	13	7	34.5%	166.2%	49	35	33	212	39.0%	6.1%	-84.4%
Fees	43	57	29	-23.4%	52.2%	174	104	77	79	67.4%	35.1%	-2.5%
Other	26	119	28	-77.9%	-7.1%	173	453	101	174	-61.8%	348.5%	-42.0%
Operating revenue	300	566	573	-47.0%	-47.6%	2,136	2,596	2,182	2,214	-17.7%	19.0%	-1.4%
Operating expenses[1]	263	301	254	-12.4%	3.7%	1,056	899	923	990	17.4%	-2.6%	-6.8%
Operating profit	1	299	248	-99.6%	-99.5%	839	1,440	1,025	947	-41.7%	40.5%	8.2%
Net profit (loss)	2	205	59	-99.1%	-96.8%	213	752	444	382	-71.7%	69.4%	16.2%
Shareholders' equity	3,993	4,025	3,653	-0.8%	9.3%	3,632	4,108	3,972	3,803	-11.6%	3.4%	4.4%
Regulatory capital	7,772	7,030	6,616	10.6%	17.5%	6,617	7,068	6,607	6,118	-6.4%	7.0%	8.0%
Client cash holdings	1,806	1,677	1,382	7.6%	30.7%	1,296	1,306	859	1,326	-0.7%	52.0%	-35.2%
Productivity[2] **($ thousands)**	366	694	717	-47.2%	-48.9%	687	929	2,337	757	-26.1%	-60.2%	208.9%
Annual return[3] **(%)**	**0.2**	**20.4**	**6.4**	**-20.2%**	**-6.2%**	**5.9**	**18.3**	**11.2**	**10.0**	**-12.4%**	**7.1%**	**1.1%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Retail firms

Firms that generate most of their revenues from servicing retail clients.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	107	108	115	-0.9%	-7.0%	112	116	117	122	-3.4%	-0.9%	-4.1%
Number of employees	11,268	11,277	12,391	-0.1%	-9.1%	11,724	12,169	11,962	11,937	-3.7%	1.7%	0.2%
Revenue												
Commissions	229	264	309	-13.2%	-25.9%	1,203	1,208	1,045	1,140	-0.4%	15.6%	-8.3%
Mutual fund only commissions	113	122	132	-7.4%	-14.9%	506	478	375	440	5.8%	27.5%	-14.8%
Investment banking	44	72	92	-38.9%	-52.5%	338	381	265	265	-11.2%	43.8%	0.0%
New issues equity	25	55	70	-54.1%	-64.1%	253	289	201	176	-12.6%	43.8%	14.2%
New issues debt	15	12	20	20.8%	-24.7%	67	69	56	36	-3.4%	23.2%	55.6%
Corporate advisory fees	4	5	3	-15.6%	48.9%	19	23	8	54	-16.9%	187.5%	-85.2%
Fixed income trading	5	19	36	-74.6%	-86.8%	86	91	169	170	-5.8%	-46.2%	-0.6%
Equity trading	-9	10	-7	-183.9%	-28.5%	17	84	81	-56	-79.8%	3.7%	244.6%
Net interest	32	32	43	2.3%	-25.4%	162	113	91	194	43.1%	24.2%	-53.1%
Fees	151	150	164	0.7%	-7.5%	731	623	544	667	17.3%	14.5%	-18.4%
Other	38	35	49	6.1%	-23.8%	180	137	138	198	31.7%	-0.7%	-30.3%
Operating revenue	490	582	686	-15.8%	-28.6%	2,717	2,637	2,322	2,578	3.0%	13.6%	-9.9%
Operating expenses[1]	322	330	373	-2.4%	-13.7%	1,482	1,428	1,332	1,394	3.8%	7.2%	-4.4%
Operating profit	-11	-20	47	45.2%	-123.2%	221	222	180	245	-0.2%	23.3%	-26.5%
Net profit (loss)	-29	-31	13	5.5%	-326.7%	22	33	3	-8	-34.7%	1000.0%	137.5%
Shareholders' equity	1,145	917	1,248	24.9%	-8.2%	1,162	1,295	1,224	1,067	-10.3%	5.8%	14.7%
Regulatory capital	1,633	1,394	2,461	17.1%	-33.7%	1,610	1,697	1,580	1,744	-5.1%	7.4%	-9.4%
Client cash holdings	3,827	3,954	4,772	-3.2%	-19.8%	4,920	4,820	4,506	4,194	2.1%	7.0%	7.4%
Productivity[2] ($ thousands)	174	206	222	-15.7%	-21.5%	232	217	194	216	6.9%	11.6%	-10.1%
Annual return[3] (%)	**-10.2**	**-13.5**	**4.1**	**3.3%**	**-14.4%**	**1.9**	**2.5**	**0.2**	**-0.7**	**-0.6%**	**2.3%**	**1.0%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Domestic institutional

Firms that generate most of their revenues from servicing institutional clients and have their head office located in Canada.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	57	58	57	-1.7%	0.0%	57	54	52	49	5.6%	3.8%	6.1%
Number of employees	2,268	2,285	2,374	-0.7%	-4.5%	2,279	2,013	2,090	2,146	13.2%	-3.7%	-2.6%
Revenue												
Commissions	90	109	114	-17.6%	-21.4%	470	448	439	517	4.8%	2.1%	-15.1%
Investment banking	100	118	198	-15.6%	-49.7%	666	781	684	635	-14.7%	14.2%	7.7%
New issues equity	48	80	148	-39.4%	-67.4%	481	574	468	389	-16.1%	22.6%	20.3%
New issues debt	13	6	6	98.4%	127.7%	25	17	17	9	49.6%	0.0%	88.9%
Corporate advisory fees	39	32	45	20.9%	-13.5%	159	190	198	237	-16.2%	-4.0%	-16.5%
Fixed income trading	7	8	3	-17.1%	150.1%	13	17	38	25	-21.8%	-55.3%	52.0%
Equity trading	-45	-16	-15	-180.1%	-201.2%	-44	101	113	-127	-143.3%	-10.6%	189.0%
Net interest	7	6	8	16.9%	-10.9%	28	20	19	50	40.0%	5.3%	-62.0%
Fees	20	32	25	-37.9%	-17.9%	101	93	69	64	9.0%	34.8%	7.8%
Other	13	113	10	-88.2%	40.0%	54	341	25	57	-84.3%	1264.0%	-56.1%
Operating revenue	191	371	342	-48.4%	-44.0%	1,288	1,801	1,388	1,222	-28.5%	29.8%	13.6%
Operating expenses[1]	149	162	162	-8.2%	-8.0%	630	554	548	502	13.7%	1.1%	9.2%
Operating profit	16	156	115	-89.9%	-86.3%	444	1,008	635	484	-56.0%	58.7%	31.2%
Net profit (loss)	-14	109	39	-112.7%	-135.3%	73	536	277	137	-86.4%	93.5%	102.2%
Shareholders' equity	1,241	1,276	1,266	-2.8%	-2.0%	1,171	1,737	1,685	1,563	-32.6%	3.1%	7.8%
Regulatory capital	2,594	1,870	1,861	38.7%	39.4%	1,749	2,325	1,943	1,900	-24.8%	19.7%	2.3%
Client cash holdings	968	890	833	8.7%	16.2%	967	618	555	833	56.4%	11.4%	-33.4%
Productivity[2] **($ thousands)**	338	649	576	-48.0%	-41.4%	565	895	664	569	-36.8%	34.7%	16.6%
Annual return[3] **(%)**	**-4.4**	**34.0**	**12.3**	**-38.5%**	**-16.7%**	**6.2**	**30.9**	**16.4**	**8.8**	**-24.7%**	**14.4%**	**7.7%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Foreign institutional

Firms that generate most of their revenues from servicing institutional clients and have their head office located offshore.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	23	21	22	9.5%	4.5%	21	20	20	20	5.0%	0.0%	0.0%
Number of employees	1,011	978	823	3.4%	22.8%	829	780	711	780	6.3%	9.7%	-8.8%
Revenue												
Commissions	51	57	53	-10.9%	-3.9%	223	208	183	260	7.2%	13.7%	-29.6%
Investment banking	41	65	73	-37.1%	-44.3%	246	301	367	303	-18.1%	-18.0%	21.1%
New issues equity	6	8	12	-25.2%	-51.8%	42	60	99	49	-30.7%	-39.4%	102.0%
New issues debt	13	16	13	-17.7%	5.8%	35	41	34	33	-15.3%	20.6%	3.0%
Corporate advisory fees	22	41	49	-47.1%	-55.5%	170	200	234	220	-14.9%	-14.5%	6.4%
Fixed income trading	16	25	-3	-33.6%	643.9%	166	106	212	69	56.3%	-50.0%	207.2%
Equity trading	-46	11	86	-503.5%	-153.6%	0	44	-67	66	-99.7%	165.7%	-201.5%
Net interest	11	7	-1	48.5%	1164.8%	21	15	14	162	37.7%	7.1%	-91.4%
Fees	23	24	4	-3.8%	480.3%	73	11	8	15	561.0%	37.5%	-46.7%
Other	13	5	19	134.0%	-31.3%	119	111	76	118	7.5%	46.1%	-35.6%
Operating revenue	109	195	231	-44.3%	-53.0%	848	796	794	992	6.5%	0.3%	-20.0%
Operating expenses[1]	115	138	92	-17.3%	24.3%	426	345	375	488	23.3%	-8.0%	-23.2%
Operating profit	-15	143	133	-110.2%	-110.9%	395	432	390	463	-8.6%	10.8%	-15.8%
Net profit (loss)	16	97	20	-83.9%	-21.3%	140	215	167	245	-34.9%	28.7%	-31.8%
Shareholders' equity	2,753	2,748	2,386	0.2%	15.4%	2,462	2,371	2,287	2,239	3.8%	3.7%	2.1%
Regulatory capital	5,178	5,160	4,755	0.4%	8.9%	4,868	4,742	4,664	4,218	2.7%	1.7%	10.6%
Client cash holdings	838	787	549	6.5%	52.6%	330	688	304	493	-52.1%	126.3%	-38.3%
Productivity[2] **($ thousands)**	430	799	1,124	-46.1%	-61.7%	1,023	1,021	3,350	1,272	0.2%	-69.5%	163.4%
Annual return[3] **(%)**	**2.3**	**14.1**	**3.3**	**-11.8%**	**-1.1%**	**5.7**	**9.1**	**9.7**	**10.9**	**-3.4%**	**-0.7%**	**-1.2%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Retail full service

Firms that generate most of their revenues from servicing retail clients and have their own front and back offices.

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	33	33	34	0.0%	-2.9%	34	35	35	34	-2.9%	0.0%	2.9%
Number of employees	5,709	5,718	6,379	-0.2%	-10.5%	6,114	6,231	6,072	6,018	-1.9%	2.6%	0.9%
Revenue												
Commissions	119	140	167	-14.7%	-28.4%	662	675	605	659	-1.9%	11.6%	-8.2%
Mutual fund only commissions	67	74	77	-9.3%	-12.5%	302	285	227	268	6.0%	25.6%	-15.3%
Investment banking	28	52	62	-45.9%	-54.3%	233	271	192	156	-14.1%	41.1%	23.1%
New issues equity	13	39	44	-66.4%	-70.0%	163	195	128	107	-16.4%	52.3%	19.6%
New issues debt	13	10	17	33.5%	-20.1%	57	61	48	27	-6.2%	27.1%	77.8%
Corporate advisory fees	2	3	1	-41.2%	33.1%	12	16	17	22	-22.5%	-5.9%	-22.7%
Fixed income trading	-3	14	28	-119.6%	-110.0%	57	71	134	136	-20.0%	-47.0%	-1.5%
Equity trading	-7	4	-4	-271.5%	-81.3%	-5	40	42	-50	-111.6%	-4.8%	184.0%
Net interest	17	16	25	3.3%	-33.8%	93	62	49	104	49.7%	26.5%	-52.9%
Fees	84	84	93	0.5%	-9.1%	354	321	288	292	10.4%	11.5%	-1.4%
Other	16	17	28	-7.2%	-43.9%	96	71	57	58	35.5%	24.6%	-1.7%
Operating revenue	254	327	398	-22.4%	-36.2%	1,491	1,511	1,367	1,356	-1.3%	10.5%	0.8%
Operating expenses[1]	178	180	214	-1.1%	-16.7%	847	819	752	780	3.4%	8.9%	-3.6%
Operating profit	-19	17	24	-211.4%	-177.9%	51	117	122	29	-56.2%	-4.1%	320.7%
Net profit (loss)	-21	4	5	-598.9%	-514.2%	-7	34	31	-29	-120.2%	9.7%	206.9%
Shareholders' equity	583	607	849	-3.9%	-31.3%	798	900	804	894	-11.3%	11.9%	-10.1%
Regulatory capital	858	874	1,868	-1.7%	-54.1%	1,051	1,115	987	1,094	-5.8%	13.0%	-9.8%
Client cash holdings	2,817	2,868	3,844	-1.8%	-26.7%	3,791	3,890	3,620	2,745	-2.6%	7.5%	31.9%
Productivity[2] ($ thousands)	178	229	250	-22.3%	-28.7%	244	242	225	225	0.5%	7.7%	-0.1%
Annual return[3] (%)	**-14.7**	**2.8**	**2.4**	**-17.5%**	**-17.1%**	**-0.9**	**3.8**	**3.9**	**-3.2**	**-4.7%**	**-0.1%**	**7.1%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Retail introducers

Firms that generate most of their revenues from servicing retail clients and typically do not have back offices (use a "carrier" firm to manage their back office).

($ millions unless otherwise noted)	Quarter-over-Quarter					Annual Year-over-Year						
	Quarters			% Change		Years				% Change		
	Q2 12	Q1 12	Q2 11	Q2/Q1	Q2 12/11	2011	2010	2009	2008	11/10	10/09	09/08
Number of firms	74	75	81	-1.3%	-8.6%	78	81	82	88	-3.7%	-1.2%	-6.8%
Number of employees	5,559	5,559	6,012	0.0%	-7.5%	5,610	5,938	5,890	5,919	-5.5%	0.8%	-0.5%
Revenue												
Commissions	110	124	142	-11.5%	-22.9%	540	533	440	480	1.4%	21.1%	-8.3%
Mutual fund only commissions	45	47	55	-4.5%	-18.1%	204	192	148	172	6.1%	29.7%	-14.0%
Investment banking	16	20	31	-20.5%	-48.8%	106	110	73	110	-4.0%	50.7%	-33.6%
New issues equity	12	16	26	-24.1%	-54.3%	89	94	73	69	-4.8%	28.8%	5.8%
New issues debt	2	2	3	-34.2%	-50.1%	9	9	8	9	4.8%	12.5%	-11.1%
Corporate advisory fees	2	2	1	36.6%	66.2%	7	7	-8	32	-4.1%	187.5%	-125.0%
Fixed income trading	8	4	8	74.6%	-0.7%	29	20	35	34	44.8%	-42.9%	2.9%
Equity trading	-1	6	-3	-123.2%	48.3%	22	43	38	-6	-49.7%	13.2%	733.3%
Net interest	16	16	18	1.3%	-14.0%	69	51	42	89	35.0%	21.4%	-52.8%
Fees	67	66	71	0.8%	-5.3%	376	302	256	375	24.6%	18.0%	-31.7%
Other	22	19	21	18.3%	2.1%	84	66	81	140	27.7%	-18.5%	-42.1%
Operating revenue	236	255	288	-7.3%	-18.1%	1,226	1,125	966	1,222	9.0%	16.5%	-20.9%
Operating expenses[1]	143	150	158	-4.1%	-9.5%	635	609	580	614	4.3%	5.0%	-5.5%
Operating profit	8	-37	23	121.8%	-64.4%	170	105	57	216	62.1%	84.2%	-73.6%
Net profit (loss)	-8	-35	8	77.8%	-201.2%	28	-1	-27	21	2942.9%	96.3%	-228.6%
Shareholders' equity	562	310	399	81.3%	41.0%	364	395	420	173	-7.9%	-6.0%	142.8%
Regulatory capital	774	520	592	48.9%	30.7%	560	582	593	650	-3.8%	-1.9%	-8.8%
Client cash holdings	1,011	1,087	928	-7.0%	8.9%	1,130	930	886	1,448	21.5%	5.0%	-38.8%
Productivity[2] ($ thousands)	170	183	192	-7.3%	-11.4%	219	189	164	206	15.3%	15.5%	-20.6%
Annual return[3] (%)	**-5.6**	**-45.5**	**7.8**	**39.9%**	**-13.3%**	**7.8**	**-0.3**	**-6.4**	**12.1**	**8.1%**	**6.2%**	**-18.6%**

[1] Operating expenses reflect the underlying cost of running the securities firm and exclude commissions, bonuses and other compensation to brokers.
[2] Annual revenue per employee.
[3] Annual return is calculated as net profit/shareholder's equity.

Comments please!

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