

May 31, 2001

Mr. John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, ON M5H 3S8

Dear Mr. Stevenson:

**Re: Concept Proposal to Revise Schedule I (Fees) to the Regulation to the
*Securities Act (Ontario)***

We are writing in response to the request for comments on the Concept Proposal to Revise Schedule I (Fees) to the Regulation to the *Securities Act* (Ontario) (the "Fee Proposal"), released on March 30, 2001. We appreciate being given the opportunity to comment on this very important proposal.

We are very encouraged by the release of the Fee Proposal and the objectives the OSC aims to achieve through it, including the reduction of overall fees charged to market players, simplification and clarification of the current fee schedule, and rationalization of fees charged with the actual cost to the OSC of providing services. We appreciate that considerable effort has been made to address these various objectives. With this in mind, we have reviewed the Fee Proposal, conferred with our Members and offer the following comments on specific elements of the Fee Proposal.

1. *Harmonization*

The Overview of the Fee Proposal mentions that the Ontario Securities Commission ("OSC") is leading discussions among the Canadian Securities Administrators ("CSA") to encourage the CSA jurisdictions to consider adopting a similar fee model. The theme of harmonization resonates through many regulatory initiatives that affect our industry. Our Members would welcome the implementation of an acceptable, uniform fee model across all jurisdictions.

2. *Duration of comment period*

Although the OSC conducted industry consultations prior to the release of the Fee Proposal, several Members have told us that more time was needed to consider the Fee Proposal and assess its impact on their operations. Given the importance of this initiative,

we urge further consultation as the Fee Proposal progresses through the next stages with ample opportunity given for comment.

3. *Participation Fees – gross revenue attributable in Ontario*

The Fee Proposal is based on the concept of participation fees and activity fees. On the capital markets side, the participation fee is designed to be an “all-inclusive fee to cover the cost of administration of regulation” of the regulated activities of registrants, along with a “proportionate share of the unallocated overhead costs of the OSC”.

During the consultation sessions noted above, we commented extensively on the feasibility of basing the participation fees on gross revenues attributable to the registrant or non-registrant fund manager’s business in Ontario. In Appendix “E” the Fee Proposal suggests that the portion of gross revenues attributable to Ontario should be the provincial allocation rate used in the Ontario tax return for the same fiscal period. We understand that many firms have structured their businesses such that all revenues are earned in Ontario, and that they have received tax advice supporting this structure.

The Fee Proposal as currently drafted would capture all of the firm’s revenue in the gross revenue calculation. If this model is retained, then there should be some guidance about how revenue is to be allocated appropriately. Appendix “E” to the Fee Proposal indicates that, for the purpose of determining their participation fee, non-resident registrants that do not pay tax must allocate a proportion of total revenue generated from Ontario residents. We believe it would be unfair to require this from non-resident registrants and not permit those who do pay tax in Ontario (as noted above) to do the same allocation of revenue. Further, in view of the earlier comment about harmonization of fee models across the CSA, there should also be some consideration of how the gross revenue model in the Fee Proposal, if adopted nationally, might disadvantage other jurisdictions.

4. *Prospectus Offerings by Investment Funds*

We were extremely pleased to see the significant reduction of fees (\$600 per fund) to be charged to investment funds or their manager when they file a preliminary or pro forma prospectus. While we agree that multiple fund filings in a single document technically constitute a separate filing for each fund, we wonder whether there could be some declining activity fee for a multiple fund filing, on the basis that some economies are achieved when the information is contained in a single document. For example, one flat fee could be charged for the first fund in the group, with a lower flat fee for each additional fund under the same prospectus. This kind of declining fee model for multiple fund filings has already been used in other jurisdictions in Canada.

There is provision for an additional \$2000 fee for the review of investment fund prospectuses that are “complex” or involve a “novel product or securities”. We appreciate that the OSC would want to consider these filings on a case by case basis, and think that the advance notice that additional fees may be payable is a good idea. However, it would

be helpful if the Fee Proposal could elaborate on what OSC staff would consider a “complex” filing or a “novel” product or securities.

5. *Rush exemption applications*

The Fee Proposal mentions that the activity fee for reviewing and processing an application for an order of the OSC will be doubled if the application is sought on a “rush” basis (meaning the order is required in less than 20 days from receipt of the application to the OSC). We would like to confirm our understanding that this “rush” fee would only be required where the applicant was responsible for initiating the application on a “rush” basis. We assume that it would not be imposed in cases where the filer had initially received advice that an application would not be required, and then subsequently, within the “rush” period, advised that an application would be required.

We would be pleased to discuss these comments with you further. Please feel free to contact John Mountain, Vice President, Regulation, at (416) 363-2150 ext. 271 or Leslie Byberg, Senior Counsel, at (416) 363-2150 ext. 473.

Sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

“ORIGINAL SIGNED BY T. HOCKIN”

Hon. Thomas A. Hockin
President & Chief Executive Officer