

6.2.1 Proposed Amendments to OSC Rule 13-503 (*Commodity Futures Act*) Fees

REQUEST FOR COMMENTS

PROPOSED AMENDMENTS TO OSC RULE 13-503 (COMMODITY FUTURES ACT) FEES

REQUEST FOR COMMENTS

The Commission is publishing for a 90-day comment period proposed amendments (the Proposed Amendments) to OSC Rule 13-503 (*Commodity Futures Act*) Fees (the Current Rule). In this Notice, the proposed amended version of the Current Rule is referred to as the Proposed Rule.

In addition to being published in this Bulletin, the Proposed Amendments are available on the Commission's website (www.osc.gov.on.ca). A related notice containing proposed amendments to OSC Rule 13-502 Fees is also being published in this Bulletin and is referred to further below.

We request comments on the Proposed Amendments by December 31, 2009.

SUBSTANCE AND PURPOSE OF THE PROPOSED AMENDMENTS

The Proposed Amendments are consistent with the Current Rule. That is, under the Proposed Rule, registrant firms would continue to be required to pay fees reflecting the Commission's costs of regulating activities governed by the *Commodity Futures Act* (CFA).

Fees referenced in the Proposed Amendments fall within two categories: participation fees and activity fees.

Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities. The participation fee required of a CFA registrant is a measure of the CFA registrant's size, which is used as proxy for its proportionate participation in the Ontario capital markets. However, a CFA registrant is not required to pay a participation fee under the Current Rule or Proposed Rule if it is subject to a capital markets participation fee under OSC Rule 13-502 Fees. As set out below, it is proposed to phase-in increases in participation fees over three years.

Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix B of the Current Rule and the Proposed Rule are considered in determining these fees (e.g., reviewing registration applications and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

The Proposed Amendments do not include amendments consequential to the adoption of International Financial Reporting Standards for financial years beginning on or after January 1, 2011. The amendments required to the Current Rule that relate to International Financial Reporting Standards will be dealt with separately in the coming months.

ANTICIPATED COSTS AND BENEFITS AND SUPPLEMENTARY INFORMATION

Financial information relevant to fees established under both the *Commodity Futures Act* and the *Securities Act* is contained in the notice in the Bulletin on proposed amendments to OSC Rule 13-502 Fees.

SUMMARY OF PROPOSED AMENDMENTS

Participation fees

There are no changes to the tiers of specified Ontario revenues used in determining participation fees. However, it is proposed that capital markets participation fees be increased by 9% annually over three years at each tier of specified Ontario revenues.

Activity fees

Under amended item 1 of section A of Appendix B of the Proposed Rule, the fee for various application reviews would increase from \$3,000 to \$3,250. This primarily reflects the higher costs of resources involved in their review and the increased complexity of issues arising in these reviews.

Under new section F of Appendix B of the Proposed Rule, a pre-filing fee is proposed to be charged in connection with pre-filing of applications for which fees are charged in Appendix B. This pre-filing fee, which is creditable against the corresponding

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filing fee, is equal to the corresponding filing fee. This pre-filing fee corresponds to the fee currently charged in section F of Appendix C to OSC Rule 13-502 *Fees*.

AUTHORITY FOR THE PROPOSED AMENDMENTS

Paragraph 25 of subsection 65(1) of the *Commodity Futures Act* authorizes the Commission to make rules "Prescribing the fees payable to the Commission, including those for filing, for applications for registration or exemptions, for trades in contracts, in respect of audits made by the Commission and in connection with the administration of Ontario commodity futures law."

ALTERNATIVES CONSIDERED

The Commission did not consider any alternatives to the Proposed Rule.

UNPUBLISHED MATERIALS

The Commission has not relied on any significant unpublished study, report, decision or other written materials in proposing the Proposed Amendments.

HOW TO PROVIDE YOUR COMMENTS

You must provide your comments in writing by December 31, 2009. If you are not sending your comments by email, you should also send an electronic file containing the submissions (in Windows format, Microsoft Word).

Please send your comments to the following address:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

The Commission will publish written comments received unless the Commission approves a commenter's request for confidentiality or the commenter withdraws its comment before the comment's publication.

QUESTIONS

Please refer your questions to:

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TEXT OF THE PROPOSED AMENDMENTS

The text of the Proposed Amendments follows in Annex A.

October 2, 2009

Annex A

Proposed Amendments to Ontario Securities Rule 13-503 (*Commodity Futures Act*) Fees

1. *Ontario Securities Rule 13-503 (Commodity Futures Act) Fees is amended by this Instrument.*
2. *Appendix A is repealed and substituted by the following:*

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Previous Fiscal Year	Participation Fee
under \$500,000	\$870
\$500,000 to under \$1 million	\$2,725
\$1 million to under \$3 million	\$6,100
\$3 million to under \$5 million	\$13,725
\$5 million to under \$10 million	\$27,800
\$10 million to under \$25 million	\$56,700
\$25 million to under \$50 million	\$85,000
\$50 million to under \$100 million	\$170,000
\$100 million to under \$200 million	\$282,300
\$200 million to under \$500 million	\$572,250
\$500 million to under \$1 billion	\$739,000
\$1 billion to under \$2 billion	\$932,000
\$2 billion and over	\$1,564,000

3. *Appendix A, as enacted by section 2, is repealed and substituted by the following:*

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Previous Fiscal Year	Participation Fee
under \$500,000	\$945
\$500,000 to under \$1 million	\$2,970
\$1 million to under \$3 million	\$6,650
\$3 million to under \$5 million	\$14,975
\$5 million to under \$10 million	\$30,300
\$10 million to under \$25 million	\$61,800
\$25 million to under \$50 million	\$92,650
\$50 million to under \$100 million	\$185,300
\$100 million to under \$200 million	\$307,700
\$200 million to under \$500 million	\$623,750
\$500 million to under \$1 billion	\$805,500
\$1 billion to under \$2 billion	\$1,015,900
\$2 billion and over	\$1,704,800

4. **Appendix A, as enacted by section 3, is repealed and substituted by the following:**

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Previous Fiscal Year	Participation Fee
under \$500,000	\$1,035
\$500,000 to under \$1 million	\$3,240
\$1 million to under \$3 million	\$7,250
\$3 million to under \$5 million	\$16,325
\$5 million to under \$10 million	\$33,000
\$10 million to under \$25 million	\$67,400
\$25 million to under \$50 million	\$101,000
\$50 million to under \$100 million	\$202,000
\$100 million to under \$200 million	\$335,400
\$200 million to under \$500 million	\$679,900
\$500 million to under \$1 billion	\$878,000
\$1 billion to under \$2 billion	\$1,107,300
\$2 billion and over	\$1,858,200

5. **Appendix B is amended by**

- a. **striking out “\$3,000” in item 1 of section A and substituting “\$3,250”, and**
- b. **adding the following after section E:**

<p>F. Pre Filings of Applications</p> <p><i>Note: The fee for a pre-filing of an application will be credited against the applicable fee payable if and when the corresponding formal filing is actually proceeded with; otherwise, the fee is nonrefundable.</i></p>	<p>The fee for each pre-filing of an application is equal to the applicable fee that would be payable if the corresponding formal filing had proceeded at the same time as the pre-filing.</p>
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- 6. (1) **Subject to subsections (2) and (3), this Instrument comes into force on April 5, 2010.**
- (2) **Section 3 comes into force on April 4, 2011.**
- (3) **Section 4 comes into force on April 2, 2012.**