

Chapter 6

Request for Comments

6.1.1 Proposed Amendments to OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees

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

August 23, 2012

Introduction

The current fee structure under the OSA and the *Commodity Futures Act* was established in 2003. The OSC re-evaluates its fee levels and resets its fees every three years.

The Commission is publishing for a 90-day comment period proposed amendments (the Proposed Amendments) to OSC Rule 13-502 Fees (the Current Rule) made under the Securities Act (OSA), together with proposed changes (the Proposed CP Changes) to Companion Policy 13-502CP. In this Notice, the proposed versions of the Current Rule and the Companion Policy are referred to as the Proposed Rule and the Proposed CP, respectively. The Proposed Amendments and the Proposed CP Changes are referred to collectively as the Proposed Materials.

The Proposed Materials are available on the Commission's website (www.osc.gov.on.ca). Related proposed changes to OSC Rule 13-503 (*Commodity Futures Act*) Fees are also being published for comment in this Bulletin.

The OSC, as a self-funded agency, strives to operate on a cost-recovery basis and is dependent on fees from market participants. The fee structure is designed to recover the OSC's costs to provide protection to investors and promote efficient capital markets that are aligned with global markets.

Capital markets have become increasingly interconnected by technology, business models, investment flows and human interactions. The breadth and volume of market activity is expanding in step with rapid technological innovations, including high-frequency trading, and the proliferation of new products, such as exchange-traded funds. Capital travels faster within multiple marketplaces that span jurisdictional borders, relying on advanced infrastructure platforms and trading systems. Emerging market countries have a growing influence on international capital flows and are leveraging technology to open new marketplaces.

Increasingly, the OSC must deal with regulatory matters that are international, not only provincial or national, in their scope, such as the oversight of emerging markets issuers and the regulation of over-the-counter derivatives. The OSC and authorities in other countries often face similar challenges that require collaborative, not individual, policy responses. More so than ever before, the OSC regulates within the context of a global marketplace, which underlines the imperative of engaging with our international counterparts, especially through the International Organization of Securities Commissions (IOSCO), to deliver proactive regulation. In the face of complex international investigations and changing markets, we know we need to enhance our efficiency and effectiveness. The Enforcement Branch is increasing its expertise in conducting multi-jurisdictional investigations, which are costly and present challenges related to geography, access to records and inter-agency co-operation.

The OSC and securities regulators around the world must come to grips with this new reality as it presents challenges to certain traditional approaches to regulation, especially the need to understand and regulate complex trading strategies and products as well as cross-border matters in compliance and enforcement. The interconnectedness of markets also creates systemic risk within the wider financial framework, and securities regulators have assumed a key role in maintaining its stability. The OSC, working with the Bank of Canada, federal Department of Finance, Office of the Superintendent of Financial Institutions and the Canadian Securities Administrators (CSA), has kept Canada on schedule to meet its G20 commitments to mitigate systemic risk, in particular, by developing regulatory regimes for OTC derivatives. The OSC works with the CSA to sustain a more efficient national system that supports the Canada-wide interests of investors, market participants and the economy. As an active CSA member, the OSC co-operates with its provincial and territorial counterparts on numerous national initiatives to harmonize the regulation of Canada's capital markets.

This is the environment in which the OSC regulates the capital markets of Ontario. Global pressures to increase regulatory efforts continue to drive the OSC's cost structure. The OSC is mandated to provide protection to investors and foster confidence in the fairness and efficiency of markets while operating in the context of fast-moving changes to market structures, technology, investment products and the global regulatory regime. The OSC faces a very difficult task to balance pressures to

apply more resources to multiple areas of growing responsibility, against its desire to limit the rate of fee increases for market participants who continue to face challenging market conditions. The OSC must raise fees because its scope to reallocate resources cannot provide the capacity needed to meet the increasing regulatory demands, both national and international, that continue to generate cost pressures for the OSC. Other regulators are facing similar pressures and have been forced to increase fees significantly (e.g., SEC – 24%). The OSC must raise its fees to fund additional resources to ensure that it has the appropriate institutional capacity, expertise and skills to deal with these issues and challenges. With the proposed fee changes set out below OSC revenues are projected to increase by 14.8% in 2013/2014.

The on-going feedback received by us on Commission fees charged suggests that they are considered by market participants to be a modest component of their overall cost structures. The input sought by the Commission includes whether any part of the proposals put forth today would, if implemented, change this assessment.

We request comments on the Proposed Materials by November 21, 2012.

Substance and Purpose of the Proposed Materials

The OSC collects fees from market participants under the current fee rule through participation fees and activity fees.

Participation fees are based on the cost of a broad range of regulatory services that cannot be practically or easily attributed to individual activities or entities and are intended to serve as a proxy for the market participant's use of the Ontario capital markets. Participation fee levels are set using a tiered structure. Fees for issuers are based on average market capitalization in a fiscal year. Fees for registrants are based on their annual Ontario revenues. Participation fees are set based on estimates of OSC operating costs for upcoming periods.

Two additional categories of participation fees are proposed, increasing the categories from two to four. Participation fees for reporting issuers continue to be referred to as corporate finance participation fees and those for registrants and certain unregistered capital market participants continue to be referred to as capital markets participation fees. The two additional categories of participation fees proposed comprise fees for specified regulated entities, such as exchanges, alternative trading systems (ATs), clearing agencies and trade repositories, and for designated rating organizations.

Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources used in undertaking the activities listed in Appendix C of the Current Rule are considered in determining these fees (e.g., reviewing prospectuses, 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. Under the Proposed Rule, there is also provision in narrow circumstances for charging a variable cost-based fee for certain filings by entities such as exchanges, ATs and clearing agencies, in light of the high degree of variability of the resources used on these filings.

The Proposed Amendments make adjustments to the current rule so that the fees charged by the Commission are aligned more closely with actual Commission's costs. New activity and participation fees are proposed in areas where workload has increased and more resources are being targeted.

To allow for the greater predictability of fee revenues, the Proposed Amendments for corporate finance and capital markets participation fees provide that the fees be determined by referencing historical market capitalization or revenue data (rather than current data). In addition, that reference point is proposed to be the basis for fees for the anticipated three-year period of the Proposed Rule. The OSC undertakes to carefully monitor these changes and the participation fees collected and consider, on an on-going basis, any adjustments to the fee rule that may be warranted in order to better align the Commission's costs and revenues.

The Proposed CP Changes reflect the Proposed Amendments.

Further details on the Proposed Amendments and the Proposed CP Changes are provided below under the headings "Summary of Proposed Amendments" and "Summary of Proposed CP Changes".

Anticipated Costs and Benefits and Supplementary Information

The proposed amendments to the OSC rule are needed to address a number of other challenges. Key issues with the current rule include the following:

- Fees needing to evolve with changing OSC areas of work focus
- Fairness of share of fees among registrants and issuers

- Predictability of OSC fee revenues
- Increase in Reserve Fund

Fees needing to evolve with changing OSC areas of work focus

The OSC's areas of work have changed significantly since the fee rule was first introduced in 2003. Trading on marketplaces is faster and innovative investment products are proliferating. The OSC continues to build the necessary tools, expertise and flexibility to regulate a rapidly changing market landscape. Where practical the OSC needs to try to align its fees to new areas of oversight that are generating costs. For example, OSC efforts and resources focused on oversight of evolving market structures and products have increased significantly. As previously noted, we are proposing new participation fees for designated rating organizations and various market infrastructure entities (e.g., exchanges and clearing agencies). The new "market oversight" fees are required to recover costs in these areas that are consuming more resources.

The increases proposed for many activity fees reflects higher OSC costs as well as changes in the complexity of much of the work. This has resulted in greater time/resource requirements for certain activities. It is important to note that fewer than 20% of the OSC's activity fees were changed when they were reset in 2010.

Fairness of share of fees among registrants and issuers

The OSC is focused on trying to ensure fairness in the balance of fees paid between issuers and registrants. Difficulties in allocating certain OSC costs (e.g. enforcement costs) among these groups, and the fact that costs can change materially between these groups from year to year, make it very difficult to justify a specific allocation and suggest that the most defensible fee allocation among these groups may be an equal share. The current fee rule included fee increases of 9% for registrants and 17% for issuers to bring the balance closer to 50%/50%. With these increases, the relative share of revenues among registrants and issuers is approximately 60% and 40%, respectively. The current proposed fee increases of 7.9% per year for registrants and 15.5% per year for issuers are proposed to continue this transition toward more equal relative shares of fees paid.

Predictability of OSC Fee Revenues

Currently, participation fees are based on projected market capitalization (issuers) or Ontario revenues (registrants). The "projected" aspect of the current model reduces predictability of participation fees. Predictability is reduced further because these participation fees may fluctuate as market capitalization or Ontario revenues change for market participants.

The Proposed Rule addresses these issues by generally basing these participation fees on historical data, rather than on-going current data, in determining the size of market participants for the purposes of these fees. The Proposed Rule would set these fees for the three-year fee cycle based on the market capitalization or revenues for the most recent fiscal year prior to May 1, 2012. Using this historical data will reduce the risk that the revenues from these fees will produce significant surpluses or deficits for the Commission, and will assist market participants in their cash-flow planning.

Under this approach market participants who see a decline in their operations across the three-year fee cycle will not see any reduction in their fees and those who experience growth will avoid increased fees. However, this impact is not expected to be significant as it will be moderated by the tier structure in the fee rule under which it would take a significant change in business performance to move more than one tier during the three years.

Increase in Reserve Fund

The OSC has authority to hold a general reserve of up to \$20 million. When the reserve fund was approved by the Minister of Finance in 1999, \$20 million represented approximately six months or 50% of annual OSC operating expenses. Today this reserve represents only 20% of annual operating expenses and it is no longer sufficient to fund the OSC's cash requirements throughout the year. The OSC currently manages in-year shortfalls through a credit facility.

When fees were last set in 2010 the OSC considered the market conditions at that time and decided to draw down its surplus to reduce the impact of fee increases on market participants. During the last three years the OSC operating surplus was reduced through planned deficits and it is expected to be approximately \$7 million on March 31, 2013. The OSC needs to rebuild its surplus to position itself to deal with emerging responsibilities (e.g. derivatives), to provide flexibility when setting fees in the future and to deal with multi-year investment horizons.

To achieve its goal to be a proactive 21st century regulator, the OSC needs a fiscal framework that provides flexibility to address emerging challenges. The ability of the OSC to adjust quickly to changing circumstances and regulatory challenges is constrained by the practice of setting fees every three years and the length of the process required to implement changes to fees. The OSC needs a reserve that is sufficient to allow it to deal with unforeseen cost increases or revenue shortfalls that could materially impair its ability to operate. The proposed fee increases would allow the OSC to rebuild its reserve to a level

consistent with those maintained by other securities regulators that are self-funded (e.g., the British Columbia Securities Commission and the Alberta Securities Commission). A higher reserve would better position the OSC to manage its seasonal cash flow needs and to make multi-year investments. It would also provide the much needed flexibility to respond to a growing global regulatory agenda and to address emerging issues such as regulation of derivatives and emerging markets investigations. Any income earned on the reserve balance would be available to reduce future revenue requirements. In addition, the OSC would avoid interest costs on the current credit facility.

Financial Impact of the Proposed Changes

Since the current fee model was established in 2003, OSC fee increases have not kept pace with costs of regulation. The direct link between costs and fees has been weakened because the OSC decided to freeze fees for one year in 2009 and has used its surpluses over the last few years to keep fee increases below levels required for full cost recovery. The total amount of fees collected from market participants in the 2011/2012 fiscal year was only 3.1% higher than the total amount of fees collected in 2005/2006 fiscal year. Current participation fee rates for all issuers, as well as for most registrants with less than \$3 million in annual revenues, are lower than the fee rates in place in 2003.

The size of fee increases required reflects the influence of a number of factors. As noted above, when fees were last reset in 2010, in recognition of the difficult market conditions and to reduce the burden on market participants, the OSC decided to draw down its surplus so that fees could be set at rates that were below levels required to recover its costs. As a result, increasing revenues by 6.9% from current levels would be required just to offset the OSC’s current operating deficit and bring the OSC to full cost recovery. This fee proposal is based on the assumption of OSC costs increasing by 5% in each of the next three years. These increases factor in general inflation, as well as the need to continue to address emerging market challenges. The Commission believes that fee increases must be large enough to address the current operating deficit, the projected growth in operating costs and the need to rebuild the OSC’s reserve to ensure emerging demands can be addressed.

Under the proposal, on average the total participation fees paid by market participants will rise by 7.9% per year for registrants and 15.5% per year for issuers from the participation fees paid in 2012/2013.

In reviewing its fee requirements the OSC has made every effort to consider the current market environment. To facilitate the provision of fee relief to the smallest market participants, the OSC proposes to split the lowest participation fee tier for both issuers and registrants into two tiers. This approach is responsive to current challenging market conditions and is aligned with the OSC’s objective of supporting small and medium enterprises. As a result, 45% of issuers and 55% of registrants will be paying the same or lower participant fees.

The proposed fee changes will allow the OSC to generate an additional \$23 million in surplus over three years. In combination with the OSC’s expected \$7 million surplus at March 2013, this would provide a total of \$30 million to fund its operations and would move the OSC towards being able to internally fund its operations without the use of a credit facility. The ultimate goal would be to fund a General Reserve limited to up to 50% of the average expenditures to fund OSC operations for its most recent fiscal year. This would bring the OSC operating reserve to a level consistent with those that are maintained by other securities regulators that are self-funded. Forecast OSC operating results for the 2012/13 fiscal year and the next three fiscal years are set out below.

	2012/2013	2013/2014	2014/2015	2015/2016
	\$ Thousands			
Total Revenues	93,524	107,360	117,570	129,175
less Expenses	99,986	105,000	110,250	115,765
Net Shortfall	-6,462	2,360	7,320	13,410
OSC Surplus Opening	13,485	7,023	9,383	16,703
OSC Surplus Closing	7,023	9,383	16,703	30,113

Summary of the Proposed Amendments

The Proposed Amendments are described in detail below.

Use of pre-May, 2012 information in determining market participant size

Under the Current Rule, a participation fee for a reporting issuer is determined with reference to its capitalization for its last completed fiscal year. Under the Proposed Rule, a participation fee for a reporting issuer is determined with reference to its capitalization for its “reference fiscal year”.

Similarly, a participation fee for a registrant firm or unregistered investment fund manager under the Current Rule is determined with reference to its specified Ontario revenues for its last completed fiscal year. Under the Proposed Rule, a participation fee for a registrant firm or unregistered investment fund manager is determined with reference to its specified Ontario revenues for its “reference fiscal year”.

Under section 1.1 of the Proposed Rule, a market participant’s “reference fiscal year” is its last fiscal year ending before May 1, 2012, assuming:

- It was a reporting issuer, registrant firm or unregistered investment fund manager at the end of that fiscal year; and
- If it became a reporting issuer in that fiscal year as a result of receiving a prospectus receipt, all or substantially all of its securities were listed and quoted on a marketplace at the end of that fiscal year.

As a consequence of the way in which “reference fiscal year” is used in the Proposed Rule, these participation fees are generally fixed for three years, with reference to data from a market participant’s “reference fiscal year”.

If the assumptions described do not apply, a market participant’s “reference fiscal year” is its “previous fiscal year” (as defined in section 1.1 of the Current Rule), which in general terms is its last completed fiscal year. Where a market participant’s “reference fiscal year” is its “previous fiscal year”, the result is that the market participant’s size is determined with reference to the same time period as it is under the Current Rule. For a registrant that is required to calculate its fees based on its previous fiscal year, this means that it will use its annual financial statements each year as a basis for the information required in Form 13-502F4.

To take into account these amendments, numerous consequential amendments have been made to the Forms in the Proposed Rule.

The main objective of these amendments is to enable the better matching of the Commission’s revenues and expenditures. The proposed amendments eliminate the need to forecast market conditions in determining the anticipated fee revenues for each participation fee tier since, with the use of the reference fiscal year, participation fees will generally be known and will be predictable over the life of the Proposed Rule. This provides more stability for the benefit of the Commission and market participants.

Corporate finance participation fees

One additional tier is proposed for reporting issuers with under \$10 million of capitalization, with a lower participation fee of \$800 initially being provided for this tier. Those reporting issuers with capitalization between \$10 million and \$25 million are initially proposed to remain subject to a \$960 participation fee. The \$800 and \$960 participation fees would be increased as shown in Appendix A of the Proposed Rule in the last two years of the three-year fee cycle. Participation fees for reporting issuers within higher tiers of capitalization would increase by 15.5% annually throughout the three-year fee cycle.

The capitalization on which participation fees are based for Class 1, Class 3B and Class 3C reporting issuers is generally determined as the average monthly closing price throughout the reference fiscal year. Under the Proposed Amendments, this amount is adjusted so that the closing prices at the month ends before an issuer becomes a reporting issuer are ignored in determining capitalization for this purpose. However, to provide relief in respect of its first full year as a reporting issuer, the Proposed Amendments also pro-rate the applicable participation fee to reflect the portion of the reference fiscal year during which the issuer was not a reporting issuer.

The treatment of Class 3B issuers is clarified by the addition of Appendix B.1 in the Proposed Rule, which allows the text in subsection 2.2(3) of the Proposed Rule to be simplified.

Capital markets participation fees

One additional tier is proposed for participants with under \$250,000 of specified Ontario revenues, with a lower participation fee of \$800 initially being provided for this tier. Those participants with revenues between \$250,000 and \$500,000 are initially proposed to remain subject to a \$1,035 participation fee. The \$800 and \$1,035 participation fees would be increased as shown in Appendix B of the Proposed Rule in the last two years of the three-year fee cycle. Participation fees for participants within higher tiers of revenue would increase by 7.9% annually throughout the three-year fee cycle.

Capital market participation fees are imposed on registered firms, as well as unregistered investment fund managers. For this purpose, the definition of “unregistered investment fund manager” in section 1.1 of the Proposed Rule would be amended to exclude unregistered investment fund managers with no place of business in Ontario that act for one or more investment funds if one or more of the following apply:

- none of the managed funds have security holders resident in Ontario;
- neither the investment fund manager nor any of the managed funds has, at any time after September 27, 2012, actively solicited residents in Ontario to purchase securities of any of the managed funds.

Participation fees for specified regulated entities

New Part 3.1 and Appendix B.1 of the Proposed Rule will establish participation fees for specified market operators (including exchanges), ATSS, clearing agencies and trade repositories. The fees vary from \$8,750 to \$500,000 per calendar year and are payable, beginning in 2013, on April 30. New entrants are only required to pay these fees for a calendar year if, on April 15 of that calendar year, they fit within the organizations described and carry on business in Ontario. Payments will be accompanied by a completed Form 13-502F7.

The fees proposed for ATSS would be lower than those for recognized exchanges because recognized exchanges have more functions that the OSC is responsible for overseeing (for example, they have a listing function) and part of the oversight of ATSS is conducted by another regulatory agency (the Investment Industry Regulatory Organization of Canada (IIROC)).

Participation fees for these regulated entities are being introduced to recover the Commission's cost of oversight. In determining these fees, the Commission took into account the activities of these entities that should be subject to oversight (e.g., matching, netting and novation carried out by clearing agencies), historical costs of overseeing different types of entities and the projected costs of implementing an enhanced oversight program for certain entities (e.g. recognized exchanges and clearing agencies under Maple Group Acquisition Corp.).

Participation fees for a recognized exchange for a year would be based on its market share as calculated based on the previous 12 months ending on March 31 of the year. Where a person or company operates a market or facility that is either recognized under the Act as an exchange or regulated under the person or company's recognition order, or has one or more recognized exchanges that are subsidiaries, the group would be charged one participation fee based on the group's aggregate market share. Market share will be determined to be the highest of the group's share of the

- (a) total dollar value of trades of exchange-traded securities, as defined in National Instrument 21-101 *Marketplace Operation*;
- (b) total trading volume of exchange-traded securities, as defined in that Instrument; and
- (c) total number of trades of exchange-traded securities, as defined in that Instrument.

Late fees are proposed on any late payment of these participation fees (one-tenth of one percent per business day on unpaid amounts). As with other similar late fees determined under sections 2.5 and 3.6, late fees under \$10 are effectively waived for administrative convenience.

In some cases, a specified regulated entity may be liable for a participation fee under Part 2 or Part 3. Section 1.3 of the Proposed Rule ensures that each of the participation fees under Parts 2 to 3.2 represent independent liabilities.

Participation fees for designated rating organizations

Part 3.2 of the Proposed Rule will provide that designated rating organization must pay a \$15,000 annual participation fee. The payment is made after the completion of each financial year, at the time of the filing of the organization's Form 25-101F1 Designated Rating Organization Application and Annual Filing. The payment will be accompanied by a completed Form 13-502F8.

The same type of late fee as proposed in connection with specified regulated entities is likewise proposed in connection with designated rating organizations.

Late fees for late filing of forms

Under the Current Rule, the \$100 per day fee for the late filing of documents listed in section A of Appendix D is subject to a \$5,000 annual aggregate cap. Among the documents listed in that section, in relation to a reporting issuer, are Forms 45-501F1 and 45-106F1 (dealing with reports of prospectus-exempt distributions).

New Forms 13-502F7 and 13-502F8 are proposed to be added to the list of forms specified in section A of Appendix D.

Under the Proposed Amendments, the same daily \$100 late fee applies to all issuers for the late filing of these forms. However, Forms 45-501F1 and 45-106F1 would now be referred to in section A.1 (rather than section A) of Appendix D and would be subject to a separate \$5,000 annual aggregate cap.

Activity fees

(i) Adjustments in Amounts of Existing Activity Fees

There are a number of changes in the amounts of existing activity fees, made in order to better match the Commission's costs for specified activities and to reduce increases that would otherwise be required in the setting of participation fees. Proposed increases in activity fees reflect increases in OSC costs as well as increases in the complexity of much of the OSC's work which has resulted in greater time/resource requirements for certain activities.

The following fees are proposed to increase from \$3,250 to \$3,750:

- The fee for filing a preliminary or pro forma prospectus in Form 41-101F1 (Appendix C (A) 1);
- The fee for filing a preliminary short form prospectus in Form 44-101F1, or in connection with a MJDS distribution in the U.S.(Appendix C (A) 3);
- The base fee for the filing by an investment fund of a preliminary or pro forma prospectus in Form 41-101F2 (Appendix C (A) 4 (b)); and

The fee for reviewing a novel linked note supplement in relation to a specified derivative (Appendix C (A) 5).

With regard to the last fee described immediately above, the Proposed Amendments would extend this fee to any review of a supplement in relation to a specified derivative (i.e., the fee would not be limited to linked note supplements). This extension is proposed because any supplement qualifying the distribution of a novel specified derivative is subject to review under the pre-clearance requirement in section 4.2 of National Instrument 44-102 *Shelf Distributions* (NI 44-102). The Proposed Amendments would also impose a \$500 fee (Appendix C (A) 6) in connection with the filing of a prospectus supplement in relation to a linked note. The \$500 fee would not be limited to linked note supplements subject to review under the pre-clearance requirement in section 4.2 of NI 44-102.

The additional fee for a preliminary or pro forma prospectus of a resource issuer that is accompanied by technical reports is proposed to be increased from \$2,000 to \$2,500.

The base fee for the filing of a rights offering circular in Form 45-101F is proposed to increase from \$2,000 to \$3,750 (Appendix C (B) 3).

The base fee for an application for relief, approval or recognition specified in Appendix C (E) 1 is proposed to increase from \$3,250 to \$4,500 (or, in the case of application under multiple sections, from \$5,000 to \$7,000). However, it is proposed that applications for recognition of an exchange or clearing agency and exemptions from such recognition be no longer subject to this fee. Instead, these fees would now be provided under Appendix C (E.1).

The fee for application for relief under the Proposed Rule is proposed to increase from \$1,500 to \$1,750 (Appendix C (E) 2).

The base fee for the filing of a take-over bid or issuer bid circular under subsection 94.2(2), (3) or (4) of the OSA is proposed to increase from \$4,000 to \$4,500 (Appendix C (G) 1).

An issuer's fee for an application under subsection 1(10) of the OSA not to be treated as a reporting issuer under the OSA is proposed to increase from nil to \$1,000 (Appendix C (E) 4).

The following fee adjustments are proposed to fees for registration-related activities:

- fee for new registration of a firm is proposed to increase from \$600 to \$1,200 (Appendix C (H) 1);
- fee for change in registration category is proposed to increase from \$600 to \$700 (Appendix C (H) 2);
- fee for registration resulting from an amalgamation of firm proposed to decrease from \$2,000 to \$1,000 (Appendix C (H) 5); and
- fee for notice required under section 11.9 or 11.10 of National Instrument 31-103 is proposed to increase from \$3,000 to \$3,500 (Appendix C (I)).

(ii) Changes in Fee Structure in Relation to Exchanges, Clearing Agencies and ATSS

As noted above, OSC efforts and resources focused on evolving market structures and related oversight have increased significantly. The OSC believes that, where practical, it is fair and necessary to amend activity fees to better recover the costs of applications of exchanges and clearing agencies for recognition under the OSA, for exemptions from recognition and for variations.

In setting the amount of these activity fees, we have taken into account the average historical hours spent by OSC staff in particular matters and the past costs incurred in processing large applications that were unusual and involved significant policy considerations (e.g., Maple). We also have taken into account fees charged by other jurisdictions for similar activities.

Under Appendix C (E.1), the fee for applications for recognition by exchanges and clearing agencies would be increased to \$100,000 and the fee for exemption from recognition under the OSA for those organizations would be increased to \$75,000. An additional fee of \$100,000 would be charged in four cases, in connection with each application that:

- reflects a merger of an exchange or clearing agency,
- reflects an acquisition of a major part of the assets of an exchange or clearing agency,
- involves the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency, or
- reflects a major reorganization or restructuring of an exchange or clearing agency.

The same additional \$100,000 fee would be charged under Appendix C (E) in connection with applications to vary an order that reflect the circumstances described above.

A new fee of \$50,000 is proposed under Appendix C (E.2) in order to conduct a review of the initial Form 21-101F2 of a new ATS.

Further, provision is made in proposed section 4.1.1 of the Proposed Rule for a variable cost-based fee to be charged in connection with any filing described in section E, E.1 or E.2 of Appendix C from an exchange, ATS or clearing agency if the “designated cost” of the work on the filing exceeds \$300,000. For this purpose, the “designated cost” of work done would be equal to the product of the number of hours worked on the filing by non-managerial professional OSC staff and \$140, plus the cost of external services used by the Commission on the filing. Once the \$300,000 threshold is reached the Commission would be entitled to issue invoices to recoup the OSC’s cost of processing the filing. The special activity fee is not intended to apply frequently and would only apply to very special circumstances, such as the recently completed “Maple recognition”. Further elaboration of the process contemplated in connection with variable cost-based activity fees is set out in the Proposed CP.

With these changes in fee structure, it is intended to recover at least part of the OSC costs of certain filings that involve significant policy considerations, and thus additional resources to process. The Commission believes that, in the right circumstances, firms should pay for regulatory work that is performed where the benefit of that activity would primarily accrue to the fee payer concerned, rather than the work being paid for by other fee payers. Further, the fee payable should be consistent with the complexity of a filing.

(iii) Exempt Distribution Reports

The Current Rule provides an exemption from the \$500 fee otherwise applying in connection with the filing of Forms 45-501F1 and 45-106F1 for issuers that are subject to participation fees (Appendix C (B) 2). There is a similar exemption for investment funds if their investment fund managers are subject to participation fees. It is proposed to eliminate these exemptions in order to reflect the incremental cost to the Commission for the review of these forms.

(iv) Information Requests to the Commission

Section K of Appendix C sets out the fees that the Commission charges for retrieving and copying records, mostly of a public nature.

It is proposed to update this section to refer to copies made in any format (rather than photocopies). It is proposed to express the \$0.50 charge as applying per image (rather than per page).

It is also proposed to adjust the amount of fee charged for a search of the Commission's public records to reflect required retrieval time. The fee is proposed to be changed from a \$150 flat fee to a \$7.50 charge for each 15 minutes of search time.

Additional technical changes

The Proposed Amendments also include some non-material technical changes.

Proposed CP Changes

The purpose of the Proposed CP Changes is to clarify the Commission's view of the application of the Proposed Amendments, as well as to address the additional issues described below and to make a number of non-material technical changes.

Section 4.1 of the Proposed CP deals with the passing on of capital markets participation fees. The Commission takes the position that these participation fees should be paid by, and borne by, those who are charged the participation fees.

Section 4.4 of the Proposed CP clarifies the Commission's position as to when filings by unregistered capital market participants are made by paper copy.

Section 4.7 of the Proposed CP is meant to clarify the Commission's position as to the meaning of "active" solicitation, which is relevant in the context of the definition of "unregistered investment fund manager".

Part 6 of the Proposed CP elaborates on the process foreseen in the event that a variable cost-based activity fee is charged under section 4.1.1 of the Proposed Rule.

Authority for the Proposed Amendments

Paragraph 43 of subsection 143(1) of the OSA 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 securities, in respect of audits made by the Commission, and in connection with the administration of Ontario securities law."

Alternatives Considered

The Commission did not consider any alternatives to rule amendments in the development of the Proposed Amendments.

Unpublished Materials

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

How to Provide Your Comments

You must provide your comments in writing by November 21, 2012. 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:

The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@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

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Text of the Proposed Materials

Annex A provides a blackline showing the impact of the Proposed Amendments on the Current Rule.

Annex B sets out a blackline showing the impact of the Proposed CP Changes on the Companion Policy.

**ANNEX A
BLACKLINE SHOWING PROPOSED CHANGES TO
ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES**

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PART 1 – INTERPRETATION

1.1 Definitions – In this Rule

“capitalization” means the amount determined in accordance with section 2.7, 2.8, 2.9 or 2.10;

“capital markets activities” means

- (a) activities for which registration under the Act or an exemption from registration is required,
- (b) acting as an investment fund manager, or
- (c) activities for which registration under the *Commodity Futures Act*, or an exemption from registration under the *Commodity Futures Act*, is required;

“Class 1 reporting issuer” means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has securities listed or quoted on a marketplace in Canada or the United States of America;

“Class 2 reporting issuer” means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada other than a Class 1 reporting issuer;

“Class 3A reporting issuer” means

- (a) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has no securities listed or quoted on a marketplace located anywhere in the world, or
- (b) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year,
 - (i) has securities listed or quoted on a marketplace anywhere in the world,
 - (ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the reporting issuer for which the reporting issuer or its transfer agent or registrar maintains a list of registered owners,
 - (iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,
 - (iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and
 - (v) has not issued any of its securities in Ontario in the last 5 years, other than
 - (A) to its employees or to employees of one or more of its subsidiary entities, or
 - (B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration;

“Class 3B reporting issuer” means a reporting issuer

- (a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada,
- (b) that is not a Class 3A reporting issuer, and
- (c) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was less than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

“Class 3C reporting issuer” means a reporting issuer

- (a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada, and

- (b) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was greater than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

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

“marketplace” has the meaning ascribed to that term in National Instrument 21-101 *Marketplace Operation*;

“MFDA” means the Mutual Fund Dealers Association of Canada;

“net assets” means total assets minus total liabilities, using the meanings ascribed to those terms under the accounting standards pursuant to which the entity’s financial statements are prepared under Ontario securities law;

“NI 31-103” means National Instrument 31-103 *Registration Requirements—and, Exemptions and Ongoing Registrant Obligations*;

“Ontario allocation factor” has the meaning that would be assigned by the first definition of that expression in subsection 1(1) of the *Taxation Act, 2007* if that definition were read without reference to the words “ending after December 31, 2008”;

“Ontario percentage” means, for a fiscal year of a participant

- (a) if the participant is a company that has a permanent establishment in Ontario in the fiscal year, the participant’s Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA,
- (b) if paragraph (a) does not apply and the participant would have a permanent establishment in Ontario in the fiscal year if the participant were a company, the participant’s Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant is a company, had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA, and
- (c) in any other case, the percentage of the participant’s total revenues for the fiscal year attributable to capital markets activities in Ontario;

“parent” means a person or company of which another person or company is a subsidiary entity;

“participant” means a person or company;

“permanent establishment” has the meaning provided in Part IV of the regulations under the ITA;

“previous fiscal year” of a participant in respect of a participation fee means,

- (a) where the participation fee is payable by a reporting issuer under section 2.2 and the required date of payment is determined with reference to the required date or actual date of filing of financial statements for a fiscal year under Ontario securities law, that fiscal year,
- (b) where the participation fee becomes payable by a firm under subsection 3.1(1) on December 31 of a calendar year, the last fiscal year of the participant ending in the calendar year, and
- (c) where the participation fee is payable by an unregistered investment fund manager under subsection 3.1(2) no more than 90 days after the end of a fiscal year, that fiscal year;

“reference fiscal year” of a participant in respect of a participation fee means,

- (a) the participant’s last fiscal year ending before May 1, 2012, if
- (i) the participant was a reporting issuer, registrant firm or unregistered capital markets participant at the end of the fiscal year, and
- (ii) if the participant became a reporting issuer in that fiscal year under clause (b) of the definition of “reporting issuer” in subsection 1(1) of the Act, all or substantially all of its securities were listed or quoted on a marketplace at the end of that fiscal year, and

(b) in any other case, the previous fiscal year in respect of the participation fee;

“registrant firm” means a person or company registered under the Act as a dealer, adviser or investment fund manager;

“specified Ontario revenues” means, for a registrant firm or an unregistered capital markets participant, the revenues determined under section 3.3, 3.4 or 3.5;

“subsidiary entity” has the meaning ascribed to “subsidiary” under the accounting standards pursuant to which the entity’s financial statements are prepared under Ontario securities law;

“unregistered capital markets participant” means,

- (a) an unregistered investment fund manager; or
- (b) an unregistered exempt international firm;

“unregistered exempt international firm” means a dealer or adviser that is not registered under the Act and is

- (a) exempt from the dealer registration requirement and the underwriter registration requirement only because of section 8.18 [*International dealer*] of NI 31-103;
- (b) exempt from the adviser registration requirement only because of section 8.26 [*International adviser*] of NI 31-103; or
- (c) exempt from each of the dealer registration requirement, the underwriter registration requirement and the adviser registration requirement only because of sections 8.18 [*International dealer*] and 8.26 [*International adviser*] of NI 31-103; and

“unregistered investment fund manager” means a person or company that acts as an investment fund manager ~~and is not registered under the Act~~ manager for one or more investment funds and is not registered as an investment fund manager in accordance with Ontario securities law, but does not include a person or company that does not have a place of business in Ontario if one or more of the following apply:

- (a) none of those investment funds have security holders resident in Ontario;
- (b) the person or company and those investment funds have not, at any time after September 27, 2012, actively solicited residents in Ontario to purchase securities of any of those investment funds.

1.2 Interpretation of “listed or quoted” – In this Rule, a reporting issuer is deemed not to have securities listed or quoted on a marketplace that lists or quotes the reporting issuer’s securities unless the reporting issuer or an affiliate of the reporting issuer applied for, or consented to, the listing or quotation.

1.3 Liability for multiple participation fees – For greater certainty, the liability of a person or company for a payment under any of Parts 2 to 3.1 of this Rule does not affect the liability of that person or company under any other of those Parts.

PART 2 – CORPORATE FINANCE PARTICIPATION FEES

Division 1: General

2.1 Application – This Part does not apply to an investment fund if the investment fund has an investment fund manager.

2.2 Participation Fee

- (1) A reporting issuer must, after each of its fiscal years, pay the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its previous reference fiscal year, as its capitalization is determined under section 2.7, 2.8 or 2.10.
- (2) Despite subsection (1), a Class 3A reporting issuer must pay a participation fee of \$960.*

*Note: The \$960 amount in subsection 2.2(2) is proposed to rise to \$1,110, effective April 7, 2014, and to \$1,280, effective April 6, 2015.

- (3) Despite subsection (1), a Class 3B reporting issuer must pay a the participation fee shown in Appendix A.1 opposite the capitalization of the reporting issuer for its reference fiscal year, as its capitalization is determined under section 2.9. equal to the greater of
- (a) ~~———— \$960, and~~
 - (b) ~~———— 1/3 of the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its previous fiscal year, as its capitalization is determined under section 2.9.~~
- (3.1) Despite subsections (1) and (3), the participation fee of a reporting issuer must, if its capitalization for its reference fiscal period is affected by the application of subsection 2.7(2) or 2.9(2) and its reference fiscal period coincides with its previous fiscal year in respect of the participation fee, be calculated by multiplying
- (a) the amount of that participation fee determined without reference to this subsection, by
 - (b) the number of entire months in the previous fiscal year remaining after it became a reporting issuer divided by the lesser of
 - (i) 12, and
 - (ii) the number of entire months in the previous fiscal year.
- (4) Despite subsections (1) to (3), a participation fee is not payable by a participant under this section if the participant became a reporting issuer in period that begins immediately after the time that would otherwise be the end of the previous fiscal year in respect of the participation fee and ends at the time the participation fee would otherwise required to be paid under section 2.3.

2.3 Time of Payment – A reporting issuer must pay the participation fee required under section 2.2 by the earlier of

- (a) the date on which its annual financial statements are required to be filed under Ontario securities law, and
- (b) the date on which its annual financial statements are filed.

2.4 Disclosure of Fee Calculation – At the time that it pays the participation fee required by this Part,

- (a) a Class 1 reporting issuer must file a completed Form 13-502F1,
- (b) a Class 2 reporting issuer must file a completed Form 13-502F2,
- (c) a Class 3A reporting issuer must file a completed Form 13-502F3A,
- (d) a Class 3B reporting issuer must file a completed Form 13-502F3B, and
- (e) a Class 3C reporting issuer must file a completed Form 13-502F3C.

2.5 Late Fee

- (1) A reporting issuer that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.
- (2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a reporting issuer is deemed to be nil if the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than \$10.

2.6 Participation Fee Exemption~~Exemptions~~ **for Subsidiary Entities**

- (1) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's previousreference fiscal year if
 - (a) at the end of that previousreference fiscal year, a parent of the subsidiary entity was a reporting issuer,

- (b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,
 - (c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's previousreference fiscal year,
 - (d) the capitalization of the subsidiary entity for its previousreference fiscal year was included in the capitalization of the parent for the parent's previousreference fiscal year, and
 - (e) the net assets and total revenues of the subsidiary entity for its previousreference fiscal year represented more than 90 percent of the consolidated net assets and total revenues of the parent for the parent's previousreference fiscal year.
- (2) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's previousreference fiscal year if
- (a) at the end of that previousreference fiscal year, a parent of the subsidiary entity was a reporting issuer,
 - (b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,
 - (c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's previousreference fiscal year,
 - (d) the capitalization of the subsidiary entity for its previousreference fiscal year was included in the capitalization of the parent for the parent's previousreference fiscal year, and
 - (e) throughout the previous fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (3) If, under subsection (1) or (2), a reporting issuer has not paid a participation fee, the reporting issuer must file a completed Form 13-502F6 at the time it is otherwise required to pay the participation fee under section 2.3.

2.6.1 Participation Fee Estimate for Class 2 Reporting Issuers

- (1) If the annual financial statements of a Class 2 reporting issuer are not available by the date referred to in section 2.3, 2.3 and the issuer's reference fiscal year coincides with its previous fiscal year, the Class 2 reporting issuer must, on that date,
- (a) file a completed Form 13-502F2 showing a good faith estimate of the information required to calculate its capitalization as at the end of the previous fiscal year, and
 - (b) pay the participation fee shown in Appendix A opposite the capitalization estimated under paragraph (a).
- (2) A Class 2 reporting issuer that estimated its capitalization under subsection (1) must, when it files its annual financial statements for the previous fiscal year,
- (a) calculate its capitalization under section 2.8,
 - (b) pay the participation fee shown in Appendix A opposite the capitalization calculated under section 2.8, less the participation fee paid under subsection (1), and
 - (c) file a completed Form 13-502F2A.
- (3) If a reporting issuer paid an amount under subsection (1) that exceeds the participation fee calculated under section (2), the issuer is entitled to a refund from the Commission of the amount overpaid.

Division 2: Calculating Capitalization

2.7 Class 1 reporting issuers

- (1) The capitalization of a Class 1 reporting issuer for its previousreference fiscal year is the total of
- (a) the average market value over the previousreference fiscal year of each class or series of the reporting issuer's securities listed or quoted on a marketplace, calculated by multiplying
 - (i) the total number of securities of the class or series outstanding at the end of the previousreference fiscal year, by
 - (ii) except as provided by subsection (2), the simple average of the closing prices of the class or series on the last trading day of each month of the previousreference fiscal year in which the class or series were listed or quoted on the marketplace
 - (A) on which the highest volume in Canada of the class or series was traded in the previousreference fiscal year, or
 - (B) if the class or series was not traded in the previousreference fiscal year on a marketplace in Canada, on which the highest volume in the United States of America of the class or series was traded in the previousreference fiscal year, and
 - (b) the market value at the end of the previousreference fiscal year, as determined by the reporting issuer in good faith, of each class or series of securities of the reporting issuer not valued on the last trading day of any month under paragraph (a), if any securities of the class or series
 - (i) were initially issued to a person or company resident in Canada, and
 - (ii) trade over the counter or, after their initial issuance, are otherwise generally available for purchase or sale by way of transactions carried out through, or with, dealers.
- (2) If a person or company becomes a reporting issuer under clause (b) of the definition of "reporting issuer" in subsection 1(1) of the Act in its reference fiscal year, the reference in subparagraph (1)(a)(ii) to "each month" does not include each month ending before securities of the person or company were listed or quoted on a marketplace.

2.8 Class 2 reporting issuers

- (1) The capitalization of a Class 2 reporting issuer for its previousreference fiscal year is the total of all of the following items, as shown in its audited statement of financial position as at the end of the previous fiscal year:
- (a) retained earnings or deficit;
 - (b) contributed surplus;
 - (c) share capital or owners' equity, options, warrants and preferred shares;
 - (d) non-current borrowings, including the current portion;
 - (e) finance leases, including the current portion;
 - (f) non-controlling interest;
 - (g) items classified on the statement of financial position as non-current liabilities, and not otherwise referred to in this subsection;
 - (h) any other item forming part of equity not otherwise referred to in this subsection.
- (2) Despite subsection (1), a reporting issuer may calculate its capitalization using unaudited annual financial statements if it is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

- (3) Despite subsection (1), a reporting issuer that is a trust that issues only asset-backed securities through pass-through certificates may calculate its capitalization using the monthly filed distribution report for the last month of its previousreference fiscal year, if the reporting issuer is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

2.9 Class 3B reporting issuers

- (1) The capitalization of a Class 3B reporting issuer for its previousreference fiscal year is the total of each value of each class or series of securities of the reporting issuer listed or quoted on a marketplace, calculated by multiplying
- (a) the number of securities of the class or series outstanding at the end of the previousreference fiscal year, by
 - (b) except as provided by subsection (2), the simple average of the closing prices of the class or series on the last trading day of each month of the previousreference fiscal year in which the class or series were quoted on the marketplace on which the highest volume of the class or series was traded in the previousreference fiscal year.
- (2) If a person or company becomes a reporting issuer under clause (b) of the definition of “reporting issuer” in subsection 1(1) of the Act in its reference fiscal year, the reference in paragraph (1)(b) to “each month” does not include each month ending before securities of the person or company were listed or quoted on a marketplace.

2.10 Class 3C reporting issuers – The capitalization of a Class 3C reporting issuer is determined under section 2.7, as if it were a Class 1 reporting issuer.

2.11 Reliance on Published Information

- (1) Subject to subsection (2), in determining its capitalization for purposes of this Part, a reporting issuer may rely on information made available by a marketplace on which securities of the reporting issuer trade.
- (2) If a reporting issuer reasonably believes that the information made available by a marketplace is incorrect, subsection (1) does not apply and the issuer must make a good faith estimate of the information required.

PART 3 – CAPITAL MARKETS PARTICIPATION FEES

3.1 Participation Fee

- (1) On December ~~31~~³¹ of each calendar year, registrant firms and unregistered exempt international firms must pay the participation fee shown in Appendix B opposite the firm’s specified Ontario revenues for its previousreference fiscal year, as those revenues are calculated under section 3.3, 3.4 or 3.5.
- (2) Not later than 90 days after the end of each of its fiscal year~~years~~, if at any time in the fiscal year a person or company was an unregistered investment fund manager, the fund manager must pay the participation fee shown in Appendix B opposite the fund manager’s specified Ontario revenues for ~~the~~its reference fiscal year, as those revenues are calculated under section 3.4.
- (3) The participation fee otherwise required from a person or company under subsection (2) not later than 90 days after the end of its fiscal year is not required if the person or company
- (a) ceased at any time in the fiscal year to be an unregistered investment fund manager, and
 - (b) the person or company did not become a registrant firm at that time.
- (4) Despite subsection (2), where a person or company ceases at any time in a calendar year to be an unregistered investment fund manager and at that time becomes a registrant firm, the participation fee payable under subsection (2) not later than 90 days after the end of its last fiscal year ending in the calendar year is deemed to be the amount determined by the formula

$$A \times B/365$$

in which,

“A” is equal to the amount, if any, that would be the participation fee payable under subsection (2) not later than 90 days after the end of that fiscal year if this section were read without reference to this subsection, and

“B” is equal to the number of days in that calendar year ending after the end of that fiscal year.

3.2 Disclosure of Fee Calculation

- (1) By December 1, registrant firms and unregistered exempt international firms must file a completed Form 13-502F4 showing the information required to determine the participation fee due on December 31.
- (1.1) Despite subsection (1), if at a particular time after December 1 and in a calendar year, a firm becomes registered or provides notification that it qualifies as an unregistered exempt international firm, the completed Form 13-502F4 must be filed as soon as practicable after the particular time.
- (2) At the time that it pays any participation fee required under subsection 3.1(2), an unregistered investment fund manager must file a completed Form 13-502F4 showing the information required to determine the participation fee.

3.3 Specified Ontario Revenues for IIROC and MFDA Members

- (1) The specified Ontario revenues for its previousreference fiscal year of a registrant firm that was an IIROC or MFDA member at the end of the previousreference fiscal year is calculated by multiplying
 - (a) the registrant firm’s total revenue for its previousreference fiscal year, less the portion of that total revenue not attributable to capital markets activities, by
 - (b) the registrant firm’s Ontario percentage for its previousreference fiscal year.
- (2) For the purpose of paragraph (1)(a), “total revenue” for a previousreference fiscal year means,
 - (a) for a registrant firm that was an IIROC member at the end of the previousreference fiscal year, the amount shown as total revenue for the previousreference fiscal year on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with IIROC by the registrant firm, and
 - (b) for a registrant firm that was an MFDA member at the end of the previousreference fiscal year, the amount shown as total revenue for the previousreference fiscal year on Statement D of the MFDA Financial Questionnaire and Report filed with the MFDA by the registrant firm.

3.4 Specified Ontario Revenues for Others

- (1) The specified Ontario revenues of a registrant firm for its previousreference fiscal year that was not a member of IIROC or the MFDA at the end of the previousreference fiscal year or of an unregistered exempt international firm for its previousreference fiscal year is calculated by multiplying
 - (a) the firm’s gross revenues, as shown in the audited financial statements prepared for the previousreference fiscal year, less deductions permitted under subsection (3), by
 - (b) the firm’s Ontario percentage for the previousreference fiscal year.
- (2) The specified Ontario revenues of an unregistered investment fund manager for its previousreference fiscal year is calculated by multiplying
 - (a) the fund manager’s gross revenues, as shown in the audited financial statements for the previousreference fiscal year, less deductions permitted under subsection (3), by
 - (b) the fund manager’s Ontario percentage for the previousreference fiscal year.

- (3) For the purpose of paragraphs (1)(a) and (2)(a), a person or company may deduct the following items otherwise included in gross revenues for the previousreference fiscal year:
- (a) revenue not attributable to capital markets activities;
 - (b) redemption fees earned on the redemption of investment fund securities sold on a deferred sales charge basis;
 - (c) administration fees earned relating to the recovery of costs from investment funds managed by the person or company for operating expenses paid on behalf of the investment fund by the person or company;
 - (d) advisory or sub-advisory fees paid during the previousreference fiscal year by the person or company to
 - (i) a registrant firm, as “registrant firm” is defined in this Rule or in Rule 13-503 (*Commodity Futures Act*) Fees, or
 - (ii) an unregistered exempt international firm;
 - (e) trailing commissions paid during the previousreference fiscal year by the person or company to a registrant firm described in paragraph (d).
- (4) Despite subsection (1), a registrant firm or an unregistered exempt international firm may calculate its gross revenues using unaudited financial statements, if it is not required to prepare, and does not ordinarily prepare, audited financial statements.
- (5) Despite subsection (2), an unregistered investment fund manager may calculate its gross revenues using unaudited financial statements if it is not required to prepare, and does not ordinarily prepare, audited financial statements.

3.5 Estimating Specified Ontario Revenues for Late Fiscal Year End

- (1) If the reference fiscal year of a registrant firm or unregistered exempt international firm in respect of a participation fee under subsection 3.1(1) coincides with the previous fiscal year in respect of the participation fee and the annual financial statements of a the registrant firm or unregistered exempt international firm for the previous fiscal year have not been completed by December 1 in the calendar year in which the previous fiscal year ends, the firm must,
- (a) ~~by the time on or before December 1 in that calendar year specified in section 3.2,~~ file a completed Form 13-502F4 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the ~~previous~~ fiscal year, and
 - (b) on December 31 in that calendar year, pay the participation fee shown in Appendix B opposite the specified Ontario revenues estimated under paragraph (a).
- (2) A registrant firm or unregistered exempt international firm that estimated its specified Ontario revenues under subsection (1) must, when its annual financial statements for the previous fiscal year have been completed,
- (a) calculate its specified Ontario revenues under section 3.3 or 3.4, as applicable,
 - (b) determine the participation fee shown in Appendix B opposite the specified Ontario revenues calculated under paragraph (a),
 - (c) complete a Form 13-502F4 reflecting the annual financial statements, and
 - (d) if the participation fee determined under paragraph (b) differs from the corresponding participation fee paid under subsection (1), the firm must, not later than 90 days after the end of the previous fiscal year,
 - (i) pay the amount, if any, by which

- (A) the participation fee determined without reference to this section, exceeds
- (B) the corresponding participation fee paid under subsection (1),
 - (ii) file the Form 13-502F4 completed under paragraph (c), and
 - (iii) file a completed Form 13-502F5.
- (3) If a registrant firm or unregistered exempt international firm paid an amount under subsection (1) that exceeds the corresponding participation fee determined without reference to this section, the firm is entitled to a refund from the Commission of the excess.

3.6 Late Fee

- (1) A participant that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.
- (2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a participant is deemed to be nil if
 - (a) the participant pays an estimate of the participation fee in accordance with subsection 3.5(1), or
 - (b) the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than \$10.

PART 3.1 – PARTICIPATION FEES FOR SPECIFIED REGULATED ENTITIES

3.1.1 Payment of Participation Fee

- (1) Each specified market operator must pay annually the participation fee specified in Column C of Appendix B.1 for each specified period except that, if there is a group of specified market operators each of which is related to each other, the obligation under this Part and Appendix B.1 must be determined as if the group were a single entity in which case each specified market operator in the group is jointly and severally liable in respect of the obligation.
- (2) For the purposes of subsection (1) and Appendix B.1,
 - (a) “Canadian trading share” for a specified period is the greatest of:
 - (i) the share in the specified period of the total dollar values of trades of exchange-traded securities;
 - (ii) the share in the specified period of the total trading volume of exchange-traded securities;
and
 - (iii) the share in the specified period of the total number of trades of exchange-traded securities;
 - (b) a “specified market operator” is a person or company that, on April 15 of the calendar year in which the payment under subsection (1) is required,
 - (i) is recognized under the Act as an exchange,
 - (ii) operates a market or facility recognized under the Act as an exchange or, pursuant to a recognition order under the Act, a market or facility similar to a market, or
 - (iii) has one or more subsidiaries that are recognized exchanges under the Act; and
 - (c) a “specified period” in respect of a payment required to be made under this section by April 30 of a calendar year, is the period beginning on April 1 of the previous calendar year and ending on March 31 of the calendar year.

- (3) Each person or company named or described, or in section B, C, E or F in Column B, of Appendix B.1 must pay annually the participation fee specified for the person or company in Column C of Appendix B.1.
- (4) Each clearing agency recognized under section 21.2 of the Act must pay annually the total fee determined by aggregating the fees in Column C for the services in rows D3 to D8 that are provided by it.
- (5) Each payment described in subsection (1), (3) or (4) must be made no later than April 30 of each calendar year and be accompanied by a completed Form 13-502F7.
- (6) With regard to persons or companies described in any of rows B2, C1, C2, C3, C4, D1, E1 or F1 of Appendix B.1, subsections (2) and (3) do not apply for a calendar year unless the person or company is so described on April 15 of that calendar year and carries on business in Ontario at that time.

3.1.2 Late fee

- (1) A person or company that is late paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.
- (2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a person or company is deemed to be nil if the amount otherwise determined under subsection (1) in respect of the late payment of the participation fee is less than \$10.

PART 3.2 – PARTICIPATION FEES FOR DESIGNATED RATING ORGANIZATIONS

3.2.1 Payment of Participation Fee

- (1) Each designated rating organization must pay a participation fee of \$15,000 after the completion of each financial year.
- (2) The payment must be made no later than the earlier of:
 - (a) the time at which the designated rating organization files a completed Form 25-101FI *Designated Rating Organization Application and Annual Filing* in respect of the financial year, and
 - (b) the time at which the designated rating organization is required by National Instrument 25-101 *Designated Rating Organizations* to file a completed Form 25-101F1 *Designated Rating Organization Application and Annual Filing* in respect of the financial year.
- (3) The payment must be accompanied by a completed Form 13-502F8.

3.2.2 Late fee

- (1) A designated rating organization that is late paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.
- (2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a designated rating organization is deemed to be nil if the amount otherwise determined under subsection (1) in respect of the late payment of the participation fee is less than \$10.

PART 4 – ACTIVITY FEES

- 4.1 **Activity Fees – General** – A person or company that files a document or takes an action listed in Appendix C must, concurrently with filing the document or taking the action, pay the activity fee shown in Appendix C opposite the description of the document or action.

4.1.1 Special Circumstances

- (1) If the designated cost, in connection with an application referred to in section E or E.1 of Appendix C from an exchange or clearing agency or in connection with a review referred to in section E.2 of that Appendix, is greater than \$300,000, the Commission must

- (a) issue one or more invoices to the person or company for an amount equal to the difference between that designated cost and the total fee charged in respect of the application or review under section E, E.1 or E.2 of Appendix C, in which case the amount specified in each invoice is deemed to be part of the fee for that matter and become payable, 30 days after the receipt of the invoice, by the person or company, or
 - (b) despite section E (2) of Appendix C, request that the Director consider or reconsider under section 6.1 the extent to which this section applies.
- (2) No invoice shall be issued under subsection (1) in relation to work performed by staff of the Commission more than twelve months before the invoice is issued or in relation to services performed by a third party more than twelve months after a bill for those services was rendered.
- (3) For the purposes of subsection (1) the “designated cost” of work in relation to a matter is the total of:
- (a) the product of \$140 and the number of complete hours worked by a specified member of the staff of the Commission in connection with the matter and, for the purposes of this paragraph, a specified member of the staff is a member of staff of the Commission who is engaged by the Commission for their expertise and knowledge in any combination of law, accounting and the markets, but does not include managers, assistant directors and executives; and
 - (b) the cost to the Commission of services provided by third parties contracted in connection with the matter.
- (4) An invoice under subsection (1) in respect of a matter must
- (a) to the extent it reflects work done by staff of the Commission,
 - (i) specify the number of complete hours worked by each individual on the matter to the extent that those hours were relevant in the determination of the portion of the amount invoiced under subsection (1),
 - (ii) specify the dates on which those hours were worked, and
 - (iii) describe in general terms the work performed during those hours, and
 - (b) to the extent it reflects the cost described in paragraph (3)(b), describe in general terms the services provided for those costs.

4.1.2 Information Request

Section 4.1 does not apply with regard to requests to the Commission under section K of Appendix C but the Commission must only fulfill a request under that section upon full payment of the applicable fee.

4.2 Investment Fund Families – Despite section 4.1, only one activity fee must be paid for an application made by or on behalf of two or more investment funds that have

- (a) the same investment fund manager, or
- (b) investment fund managers that are affiliates of each other.

4.3 Late Fee

- (1) A person or company that files a document listed in item A or A.1 of Appendix D after the document was required to be filed must, concurrently with filing the document, pay the late fee shown in Appendix D opposite the description of the document.
- (2) Subsection (1) does not apply to the late filing of Form 13-502F4 by an unregistered investment fund manager.
- (3) A person or company that files a Form 55-102F2 *Insider Report* after it was required to be filed must pay the late fee shown in item B of Appendix D upon receiving an invoice from the Commission.

PART 5 – CURRENCY CONVERSION

- 5.1 **Canadian Dollars** – If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily noon exchange rate for that date as posted on the Bank of Canada website.

PART 6 – EXEMPTION

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

PART 7 – REVOCATION AND EFFECTIVE DATE

**APPENDIX A –
CORPORATE FINANCE PARTICIPATION FEES
(OTHER THAN CLASS 3A AND CLASS 3B ISSUERS)**

Capitalization for the <u>Previous</u> <u>Reference</u> Fiscal Year	Participation Fee (effective <u>April 1, 2013</u>)	Participation Fee (effective <u>April 7, 2014</u>)	Participation Fee (effective <u>April 6, 2015</u>)
<u>under \$10 million</u>	<u>\$800</u>	<u>\$925</u>	<u>\$1,060</u>
<u>\$10 million to under \$25 million</u>	<u>\$960</u>	<u>\$1,110</u>	<u>\$1,280</u>
<u>\$25 million to under \$50 million</u>	<u>\$2,080</u> <u>2,400</u>	<u>\$2,770</u>	<u>\$3,200</u>
<u>\$50 million to under \$100 million</u>	<u>\$5,125</u> <u>5,925</u>	<u>\$6,850</u>	<u>\$7,900</u>
<u>\$100 million to under \$250 million</u>	<u>\$10,700</u> <u>12,350</u>	<u>\$14,260</u>	<u>\$16,470</u>
<u>\$250 million to under \$500 million</u>	<u>\$23,540</u> <u>27,200</u>	<u>\$31,420</u>	<u>\$36,300</u>
<u>\$500 million to under \$1 billion</u>	<u>\$32,850</u> <u>37,950</u>	<u>\$43,850</u>	<u>\$50,650</u>
<u>\$1 billion to under \$5 billion</u>	<u>\$47,600</u> <u>54,980</u>	<u>\$63,500</u>	<u>\$73,350</u>
<u>\$5 billion to under \$10 billion</u>	<u>\$61,300</u> <u>70,800</u>	<u>\$81,770</u>	<u>\$94,444</u>
<u>\$10 billion to under \$25 billion</u>	<u>\$71,600</u> <u>82,700</u>	<u>\$95,520</u>	<u>\$110,330</u>
<u>\$25 billion and over</u>	<u>\$80,600</u> <u>93,100</u>	<u>\$107,550</u>	<u>\$124,220</u>

APPENDIX A.1
CORPORATE FINANCE PARTICIPATION FEES FOR CLASS 3B ISSUERS

<u>Capitalization for the Reference Fiscal Year</u>	<u>Participation Fee (effective April 1, 2013)</u>	<u>Participation Fee (effective April 7, 2014)</u>	<u>Participation Fee (effective April 6, 2015)</u>
<u>under \$10 million</u>	<u>\$800</u>	<u>\$925</u>	<u>\$1,060</u>
<u>\$10 million to under \$25 million</u>	<u>\$960</u>	<u>\$1,110</u>	<u>\$1,280</u>
<u>\$25 million to under \$50 million</u>	<u>\$1,110</u>	<u>\$1,280</u>	<u>\$1,470</u>
<u>\$50 million to under \$100 million</u>	<u>\$1,975</u>	<u>\$2,280</u>	<u>\$2,630</u>
<u>\$100 million to under \$250 million</u>	<u>\$4,120</u>	<u>\$4,760</u>	<u>\$5,500</u>
<u>\$250 million to under \$500 million</u>	<u>\$9,060</u>	<u>\$10,460</u>	<u>\$12,090</u>
<u>\$500 million to under \$1 billion</u>	<u>\$12,650</u>	<u>\$14,600</u>	<u>\$16,860</u>
<u>\$1 billion to under \$5 billion</u>	<u>\$18,325</u>	<u>\$21,160</u>	<u>\$24,450</u>
<u>\$5 billion to under \$10 billion</u>	<u>\$23,600</u>	<u>\$27,260</u>	<u>\$31,780</u>
<u>\$10 billion to under \$25 billion</u>	<u>\$27,570</u>	<u>\$31,850</u>	<u>\$36,780</u>
<u>\$25 billion and over</u>	<u>\$31,000</u>	<u>\$35,800</u>	<u>\$41,350</u>

APPENDIX B – CAPITAL MARKETS PARTICIPATION FEES

Specified Ontario Revenues for the Previous <u>Reference</u> Fiscal Year	Participation Fee (effective April 1, 2013)	Participation Fee (effective April 7, 2014)	Participation Fee (effective April 6, 2015)
under \$250,000	\$800	\$925	\$1,060
\$250,000 to under \$500,000	\$1,035	\$1,115	\$1,200
\$500,000 to under \$1 million	\$3,240 <u>3,500</u>	\$3,775	\$4,075
\$1 million to under \$3 million	\$7,250 <u>7,825</u>	\$8,440	\$9,110
\$3 million to under \$5 million	\$16,325 <u>17,615</u>	\$19,000	\$20,500
\$5 million to under \$10 million	\$33,000 <u>35,610</u>	\$38,425	\$41,460
\$10 million to under \$25 million	\$67,400 <u>72,725</u>	\$78,470	\$84,670
\$25 million to under \$50 million	\$104,000 <u>108,980</u>	\$117,590	\$126,880
\$50 million to under \$100 million	\$202,000 <u>217,960</u>	\$235,180	\$253,760
\$100 million to under \$200 million	\$335,400 <u>361,900</u>	\$390,490	\$421,340
\$200 million to under \$500 million	\$679,900 <u>733,625</u>	\$791,580	\$854,100
\$500 million to under \$1 billion	\$878,000 <u>947,360</u>	\$1,022,200	\$1,103,000
\$1 billion to under \$2 billion	\$1,407,300 <u>1,195,000</u>	\$1,289,400	\$1,391,250
\$2 billion and over	\$1,858,200 <u>2,000,000</u>	\$2,158,000	\$2,328,500

APPENDIX B.1
PARTICIPATION FEES FOR SPECIFIED REGULATED ENTITIES
Part 3.1 of the Rule

Row (Column A)	Specified Person or Company (Column B)	Participation Fee (Column C)
	<u>A. Specified Market Operators</u>	
<u>A1</u>	<u>Each specified market operator with a Canadian trading share for the specified period of up to 5%.</u>	<u>\$30,000</u>
<u>A2</u>	<u>Each specified market operator with a Canadian trading share for the specified period of 5% to up to 15%.</u>	<u>\$50,000</u>
<u>A3</u>	<u>Each specified market operator with a Canadian trading share for the specified period of 15% to up to 25%.</u>	<u>\$135,000</u>
<u>A4</u>	<u>Each specified market operator with a Canadian trading share for the specified period of 25% to up to 50%.</u>	<u>\$275,000</u>
<u>A5</u>	<u>Each specified market operator with a Canadian trading share for the specified period of 50% to up to 75%.</u>	<u>\$400,000</u>
<u>A6</u>	<u>Each specified market operator with a Canadian trading share for the specified period of 75% or more.</u>	<u>\$500,000</u>
	<u>B. Exchanges Exempt from Recognition under the Act</u>	
<u>B1</u>	<u>Each exchange that is exempted by the Commission from the application of subsection 21(1) of the Act</u>	<u>\$15,000</u>
	<u>C. Alternative Trading Systems</u>	
<u>C1</u>	<u>Each alternative trading system only for equity</u>	<u>\$17,000</u>
<u>C2</u>	<u>Each alternative trading system only for debt</u>	<u>\$17,000</u>
<u>C3</u>	<u>Each alternative trading system only for securities lending</u>	<u>\$8,750</u>
<u>C4</u>	<u>Each alternative trading system not described in Row C1, C2 or C3</u>	<u>\$17,000</u>
	<u>D. Clearing Agencies Recognized under the Act</u>	
<u>D1</u>	<u>Each clearing agency recognized under section 21.2 of the Act</u>	
<u>D2</u>	<u>Total determined by aggregating fees in respect of each of the following services, to the extent applicable, provided by a recognized clearing agency to Ontario participants in the market:</u>	
<u>D3</u>	<u>Matching services, being the provision of facilities for comparing data respecting the terms of settlement of a trade or transaction</u>	<u>\$10,000</u>
<u>D4</u>	<u>Netting services, being the provision of facilities for the calculation of the mutual obligations of participants for the exchange of securities and/or money</u>	<u>\$20,000</u>
<u>D5</u>	<u>Settlement services, being services that ensure that securities are transferred finally and irrevocably from one participant to another in exchange for a corresponding transfer of money and/or <i>vice versa</i></u>	<u>\$20,000</u>
<u>D6</u>	<u>Acting as a central clearing counterparty by providing novation services, if the Commission does not place reliance on another regulator for direct oversight</u>	<u>\$150,000</u>
<u>D7</u>	<u>Acting as a central clearing counterparty by providing novation services, if the Commission places reliance on another regulator for direct oversight</u>	<u>\$70,000</u>
<u>D8</u>	<u>Depository services, being the provision of centralized facilities as a depository for securities</u>	<u>\$20,000</u>

Request for Comments: Annex A – Blackline of OSC Rule 13-502 Fees

<u>Row (Column A)</u>	<u>Specified Person or Company (Column B)</u>	<u>Participation Fee (Column C)</u>
	<u>E. Clearing Agencies Exempt from Recognition under the Act</u>	
<u>E1</u>	<u>Each clearing agency that is exempted by the Commission from the application of subsection 21.2(1) of the Act</u>	<u>\$15,000</u>
	<u>F. Trade Repositories</u>	
<u>F1</u>	<u>Each trade repository designated under subsection 21.2.2(1) of the Act</u>	<u>\$30,000</u>

APPENDIX C – ACTIVITY FEES

Document or Activity	Fee
A. Prospectus Filing	
1. Preliminary or Pro Forma Prospectus in Form 41-101F1 (including if PREP procedures are used) <i>Notes:</i> (i) <i>This applies to most issuers.</i> (ii) <i>Each named issuer should pay its proportionate share of the fee in the case of a prospectus for multiple issuers (other than in the case of investment funds).</i>	\$3,2503,750
2. Additional fee for Preliminary or Pro Forma Prospectus of a resource issuer that is accompanied by engineering technical reports	\$2,0002,500
3. Preliminary Short Form Prospectus in Form 44-101F1 (including if shelf or PREP procedures are used) or a Registration Statement on Form F-9 or F-10 filed by an issuer that is incorporated or that is organized under the laws of Canada or a jurisdiction in Canada in connection with a distribution solely in the United States under MJDS as described in the companion policy to NI 71-101 <i>The Multijurisdictional Disclosure System</i>	\$3,2503,750
4. Prospectus Filing by or on behalf of certain investment funds	
(a) Preliminary or Pro Forma Simplified Prospectus and Annual Information Form in Form 81-101F1 and Form 81-101F2 <i>Note: Where a single prospectus document is filed on behalf of more than one investment fund, the applicable fee is payable for each investment fund.</i>	\$400
(b) Preliminary or Pro Forma Prospectus in Form 41-101F2 <i>Note: Where a single prospectus document is filed on behalf of more than one investment fund and the investment funds do not have similar investment objectives and strategies, \$3,2503,750 is payable for each investment fund.</i>	The greater of (i) \$3,2503,750 per prospectus, and (ii) \$650 per investment fund in a prospectus.
5. Review of prospectus supplement in relation to a specified derivative (as defined in National Instrument 44-102 <i>Shelf Distributions</i>) for which the amount payable is determined with reference to the price, value or level of an underlying interest that is unrelated to the operations or securities of the issuer	\$3,2503,750
6. Filing of prospectus supplement in relation to a specified derivative (as defined in National Instrument 44-102 <i>Shelf Distributions</i>) for which the amount payable is determined with reference to the price, value or level of an underlying interest that is unrelated to the operations of securities of the issuer	\$500
B. Fees relating to exempt distributions under OSC Rule 45-501 <i>Ontario Prospectus and Registration Exemptions</i> and NI 45-106 <i>Prospectus and Registration Exemptions</i>	
1. Application for recognition, or renewal of recognition, as an accredited investor	\$500

Document or Activity	Fee
<p>2. Forms 45-501F1 and 45-106F1</p> <p>(a) 2. Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is not an investment fund and is not subject to a participation fee</p> <p>(b) Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is an investment fund, unless the investment fund has an investment fund manager that is subject to a participation fee</p>	<p>\$500</p>
<p>3. Filing of a rights offering circular in Form 45-101F</p>	<p>\$2,0003,750</p> <p>(plus \$2,000 if neither the applicant nor an issuer of which the applicant is a wholly owned subsidiary is subject to, or is reasonably expected to become subject to, a participation fee under this Rule)</p>
<p>C. Provision of Notice under paragraph 2.42(2)(a) of NI 45-106 Prospectus and Registration Exemptions</p>	<p>\$2,000</p>
<p>D. Filing of Prospecting Syndicate Agreement</p>	<p>\$500</p>
<p>E. Applications for Relief, Approval or Recognition</p>	
<p>1. Any application for relief, approval or recognition to which section H does not apply that is under an eligible securities section, being for the purpose of this item any provision of the Act, the Regulation or any Rule of the Commission not listed in item E(2), E(3), or E(4) below: <u>nor section E.1 or E.2</u></p> <p><i>Note: The following are included in the applications that are subject to a fee under this item:</i></p> <p>(i) recognition of an exchange under section 21 of the Act, a self-regulatory organization under section 21.1 of the Act, a clearing agency under section 21.2 of the Act or a quotation and trade reporting system under section 21.2.1 of the Act;</p> <p>(ii) approval of a compensation fund or contingency trust fund under section 110 of the Regulation;</p> <p>(iii) approval of the establishment of a council, committee or ancillary body under section 21.3 of the Act;</p> <p>(iv) deeming an issuer to be a reporting issuer under subsection 1(11) of the Act;</p> <p>(v) except as listed in item E.(4)(b), applications by a person or company under subsection 144(1) of the Act; and</p> <p>(vi) except as provide in section E.1, exemption applications under section 147 of the Act.</p>	<p>\$3,2504,500 for an application made under one eligible securities section and \$5,0007,000 for an application made under two or more eligible securities sections (plus \$2,000 if none of the following is subject to, or is reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-503 (<i>Commodity Futures Act</i>) Fees:</p> <p>(i) the applicant;</p> <p>(ii) an issuer of which the applicant is a wholly owned subsidiary;</p> <p>(iii) the investment fund manager of the applicant);</p> <p>(plus an additional fee of \$100,000 in connection with each particular application by a person or company under subsection 144(1) of the Act in respect of an application described in section E.1 if the particular application</p> <p>(a) reflects a merger of an exchange or clearing agency,</p> <p>(b) reflects an acquisition of a major part of the assets of an exchange or clearing</p>

Document or Activity	Fee
	<p><u>agency,</u></p> <p>(c) <u>involves the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency, or</u></p> <p>(d) <u>reflects a major reorganization or restructuring of an exchange or clearing agency).</u></p>
<p>2. An application for relief from any of the following:</p> <p>(a) this Rule;</p>	<p><u>\$4,500</u><u>1,750</u></p>
<p>2.1 An application for relief from any of the following:</p> <p>(ba) NI 31-102 <i>National Registration Database</i>;</p> <p>(eb) NI 33-109 <i>Registration Information</i>;</p> <p>(ec) section 3.11 [<i>Portfolio manager – advising representative</i>] of NI 31-103;</p> <p>(ed) section 3.12 [<i>Portfolio manager – associate advising representative</i>] of NI 31-103;</p> <p>(fe) section 3.13 [<i>Portfolio manager – chief compliance officer</i>] of NI 31-103;</p> <p>(f.4) section 3.14 [<i>Investment fund manager – chief compliance officer</i>] of NI 31-103;</p> <p>(g) section 9.1 [<i>IIROC membership for investment dealers</i>] of NI 31-103;</p> <p>(h) section 9.2 [<i>MFDA membership for mutual fund dealers</i>] of NI 31-103.</p>	<p><u>\$1,500</u></p>
<p>3. An application for relief from any of the following:</p> <p>(a) section 3.3 [<i>Time limits on examination requirements</i>] of NI 31-103;</p> <p>(b) section 3.5 [<i>Mutual fund dealer – dealing representative</i>] of NI 31-103;</p> <p>(c) section 3.6 [<i>Mutual fund dealer – chief compliance officer</i>] of NI 31-103;</p> <p>(d) section 3.7 [<i>Scholarship plan dealer – dealing representative</i>] of NI 31-103</p> <p>(e) section 3.8 [<i>Scholarship plan dealer – chief compliance officer</i>] of NI 31-103,</p> <p>(f) section 3.9 [<i>Exempt market dealer – dealing representative</i>] of NI 31-103,</p>	<p>\$800</p>

Document or Activity	Fee
(g) section 3.10 [<i>Exempt market dealer – chief compliance officer</i>] of NI 31-103.	
4. Application (a) under clause <u>subclause 1(10)(ba)(ii) of the Act</u> ;	<u>\$1,000</u>
<p>4.1 <u>Application</u></p> <p>(a) <u>under section 30 or subsection 38(3) of the Act or subsection 1(6) of the <i>Business Corporations Act</i></u>;</p> <p>(b) <u>under section 144 of the Act for an order to partially revoke a cease-trade order to permit trades solely for the purpose of establishing a tax loss, as contemplated under section 3.2 of National Policy 12-202 <i>Revocation of a Compliance-related Cease Trade Order</i>, and</u></p> <p>(c) <u>other than a pre-filing, where the discretionary relief or regulatory approval is evidenced by the issuance of a receipt for the applicants' final prospectus (such as certain applications under NI 41-101 or NI 81-101).</u></p>	Nil
5. Application for approval under subsection 213(3) of the <i>Loan and Trust Corporations Act</i>	\$1,500
<p>6.</p> <p>(a) <u>Application made under subsection 46(4) of the <i>Business Corporations Act</i> for relief from the requirements under Part V of that Act</u></p> <p>(b) <u>Application for consent to continue in another jurisdiction under paragraph 4(b) of Ont. Reg. 289/00 made under the <i>Business Corporations Act</i></u></p> <p><i>Note: These fees are in addition to the fee payable to the Minister of Finance as set out in the Schedule attached to the Minister's Fee Orders relating to applications for exemption orders made under the <i>Business Corporations Act</i> to the Commission.</i></p>	\$400
<p><u>E.1 Market Regulation Recognitions and Exemptions</u></p> <p>(a) <u>Application for recognition of an exchange under section 21 of the Act;</u></p> <p>(b) <u>Application for exemption from the recognition of an exchange under section 21 of the Act;</u></p> <p>(c) <u>Application by clearing agencies for recognition under section 21.2 of the Act;</u></p> <p>(d) <u>Application for exemption from the recognition of a clearing agency under section 21.2 of the Act;</u></p>	<p style="text-align: center;"><u>\$100,000</u></p> <p style="text-align: center;"><u>\$75,000</u></p> <p style="text-align: center;"><u>\$100,000</u></p> <p style="text-align: center;"><u>\$75,000</u></p> <p style="text-align: center;"><u>(plus an additional fee of \$100,000 in connection with each such application that</u></p> <p style="text-align: center;"><u>(a) reflects a merger of an exchange or clearing agency.</u></p>

Document or Activity	Fee
	<p>(b) <u>reflects an acquisition of a major part of the assets of an exchange or clearing agency.</u></p> <p>(c) <u>involves the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency, or</u></p> <p>(d) <u>reflects a major reorganization or restructuring of an exchange or clearing agency).</u></p>
E.2 Alternative Trading Systems	
Review of the initial Form 21-101F2 of a new alternative trading system	\$50,000
<p>F. Pre-Filings</p> <p><i>Note: The fee for a pre-filing under this section will be credited against the applicable fee payable if and when the corresponding formal filing (e.g., an application or a preliminary prospectus) is actually proceeded with; otherwise, the fee is nonrefundable.</i></p>	The fee for each pre-filing 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.
G. Take-Over Bid and Issuer Bid Documents	
<p>1. Filing of a take-over bid or issuer bid circular under subsection 94.2(2),(3) or (4) of the Act</p>	<p>\$4,0004,500</p> <p>(plus \$2,000 if neither the offeror nor an issuer of which the offeror is a wholly-owned subsidiary is subject to, or reasonably expected to become subject to, a participation fee under this Rule)</p>
<p>2. Filing of a notice of change or variation under section 94.5 of the Act</p>	Nil
H. Registration-Related Activity	
<p>1. New registration of a firm in one or more categories of registration</p>	\$600 1,200
<p>2. Change in registration category</p> <p><i>Note: This includes a dealer becoming an adviser or vice versa, or changing a category of registration within the general categories of dealer or adviser. A dealer adding a category of registration, such as a dealer becoming both a dealer and an adviser, is covered in the preceding item.</i></p>	\$600 700
<p>3. Registration of a new representative on behalf of a registrant firm</p> <p><i>Notes:</i></p> <p>(i) <i>Filing of a Form 33-109F4 for a permitted individual as defined in NI 33-109 does not trigger an activity fee.</i></p>	\$200 per individual

Document or Activity	Fee
<p>(ii) <i>If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.</i></p> <p>(iii) <i>A registration fee will not be charged if an individual makes an application to register with a new registrant firm within three months of terminating employment with his or her previous registrant firm if the individual's category of registration remains unchanged.</i></p>	
4. Change in status from not being a representative on behalf of a registrant firm to being a representative on behalf of the registrant firm	\$200 per individual
4.1 Registration as a chief compliance officer or ultimate designated person of a registrant firm, if the individual is not registered as a representative on behalf of the registrant firm	\$200 per individual
5. Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms	\$2,000 <u>1,000</u>
6. Application for amending terms and conditions of registration	\$500
I. Notice required under section 11.9 [<i>Registrant acquiring a registered firm's securities or assets</i>] or 11.10 [<i>Registered firm whose securities are acquired</i>] of NI 31-103	\$3,000 <u>3,500</u>
J. Request for certified statement from the Commission or the Director under section 139 of the Act	\$100
K. Requests to the Commission	
1. Request for a photocopy <u>copy</u> (in any format) of Commission <u>public records</u>	\$0.50 per page <u>image</u>
2. Request for a search of Commission <u>public records</u>	\$150 <u>7.50</u> for each 15 minutes <u>search time spent by any person</u>
3. Request for one's own Form-4 <u>individual registration form</u> .	\$30

APPENDIX D – ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document	Late Fee
<p>A. Fee for late filing of any of the following documents:</p> <ul style="list-style-type: none"> (a) Annual financial statements and interim financial reports; (b) Annual information form filed under NI 51-102 <i>Continuous Disclosure Obligations</i> or NI 81-106 <i>Investment Fund Continuous Disclosure</i>; (c) Form 45-501F1 or Form 45-106F1 filed by a reporting issuer; (d) Notice under section 11.9 [<i>Registrant acquiring a registered firm's securities or assets</i>] of NI 31-103, (e) Filings for the purpose of amending Form 3 or Form 4 under the Regulation or Form 33-109F4 or Form 33-109F6 under NI 33-109 <i>Registration Information</i>, including the filing of Form 33-109F1; (f) Any document required to be filed by a registrant firm or individual in connection with the registration of the registrant firm or individual under the Act with respect to <ul style="list-style-type: none"> (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (f.1) Form 13-502F1; (f.2) Form 13-502F2; (f.3) Form 13-502F3A; (f.4) Form 13-502F3B; (f.5) Form 13-502F3C; (g) Form 13-502F4; (h) Form 13-502F5; (i) Form 13-502F6;- (j) <u>Form 13-502F7;</u> (k) <u>Form 13-502F8</u> 	<p>\$100 per business day</p> <p>(subject to a maximum aggregate fee of \$5,000</p> <ul style="list-style-type: none"> (i) per fiscal year, for a reporting issuer, for all documents required to be filed within a fiscal year of the issuer, and (ii) for a registrant firm or an unregistered capital markets participant, for all documents required to be filed by the firm within a calendar year) <p><i>Note: Subsection 4.3(2) of this Rule exempts unregistered investment fund managers from the late filing fee for Form 13-502F4.</i></p>
<p>A.1 <u>Fee for late filing Forms 45-501F1 and 45-106F1</u></p>	<p>\$100 per business day</p> <p><u>(subject to a maximum aggregate fee of \$5,000 per fiscal year, for an issuer, for all Forms 45-501F1 and 45-106F1, required to be filed within a fiscal year of the issuer).</u></p>
<p>B. Fee for late filing of Form 55-102F2 – <i>Insider Report</i></p>	<p>\$50 per calendar day per insider per issuer (subject to a maximum of \$1,000 per issuer within any one year beginning on April 1st and ending on March 31st.)</p>

Document	Late Fee
	<p>The late fee does not apply to an insider if</p> <ul style="list-style-type: none"><li data-bbox="1101 306 1458 386">(a) the head office of the issuer is located outside Ontario, and<li data-bbox="1101 415 1458 548">(b) the insider is required to pay a late fee for the filing in a jurisdiction in Canada other than Ontario.

FORM 13-502F1
CLASS 1 REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year:

(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before May 1, 2012, provided that it was a reporting issuer at the end of that fiscal year and, if it became a reporting issuer in that year as a consequence of a prospectus receipt, all or substantially all of its securities were listed or quoted on a marketplace at the end of that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Market value of listed or quoted securities:

Total number of securities of a class or series outstanding as at the end of the issuer's last-completedreference fiscal year (i)

Simple average of the closing price of that class or series as of the last trading day of each month in the last-completed ~~fiscal year~~ (See reference fiscal year, computed with reference to clauses 2.7(1)(a)(ii)(A) and (B) and subsection 2.7(2) of the Rule) (ii)

Market value of class or series (i) X (ii) = (A)

(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the last-completedreference fiscal year) (B)

Market value of other securities not valued at the end of the last-completed fiscal year any trading day in a month: (See paragraph 2.7(1)(b) of the Rule)

(Provide details of how value was determined) (C)

(Repeat for each other class or series of securities to which paragraph 2.7(1)(b) of the Rule applies) (D)

Capitalization for the last-completedreference fiscal year

(Add market value of all classes and series of securities) (A) + (B) + (C) + (D) =

Participation Fee (determined without reference to subsections 2.2(3.1) of the Rule)

(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) (iii)

Did the issuer become a reporting issuer in the previous fiscal year as a result of a prospectus receipt? If no, participation fee equals (iii) amount above. (iii)

If yes, prorate (iii) amount as calculated in subsection 2.2(3.1) of the Rule to determine participation fee. (iv)

Late Fee, if applicable

(As determined under section 2.5 of the Rule)

**FORM 13-502F2
CLASS 2 REPORTING ISSUERS – PARTICIPATION FEE**

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before May 1, 2012, provided that it was a reporting issuer at the end of that fiscal year and, if it became a reporting issuer in that year as a consequence of a prospectus receipt, all or substantially all of its securities were listed or quoted on a marketplace at the end of that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Financial Statement Values:

(Use stated values from the audited financial statements of the reporting issuer as of the end of its last completed ~~reference~~ fiscal year)

- Retained earnings or deficit (A)
- Contributed surplus (B)
- Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes) (C)
- Non-current borrowings (including the current portion) (D)
- Finance leases (including the current portion) (E)
- Non-controlling interest (F)
- Items classified on the statement of financial position as non-current liabilities (and not otherwise listed above) (G)
- Any other item forming part of equity and not set out specifically above (H)

Capitalization for the last completed ~~reference~~ fiscal year

(Add items (A) through (H))

Participation Fee

(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) _____

Late Fee, if applicable

(As determined under section 2.5 of the Rule) _____

**FORM 13-502F2A
ADJUSTMENT OF FEE PAYMENT
FOR CLASS 2 REPORTING ISSUERS**

Reporting Issuer Name: _____

Fiscal year end date used to calculate capitalization: _____

State the amount paid under subsection 2.6.1(1) of Rule 13-502: _____ (i)

Show calculation of actual capitalization based on audited financial statements:

Financial Statement Values:

- Retained earnings or deficit (A)
- Contributed surplus (B)
- Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes) (C)
- Non-current borrowings (including the current portion) (D)
- Finance leases (including the current portion) (E)
- Non-controlling interest (F)
- Items classified on the statement of financial position as non-current liabilities (and not otherwise listed above) (G)
- Any other item forming part of equity and not set out specifically above (H)

Capitalization

(Add items (A) through (H)) _____

Participation Fee

(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) (ii)

Refund due (Balance owing)

(Indicate the difference between (i) and (ii)) (i) – (ii) = _____

**FORM 13-502F3A
CLASS 3A REPORTING ISSUERS – PARTICIPATION FEE**

Reporting Issuer Name: _____
(Class 3A reporting issuer cannot be incorporated or organized under the laws of Canada or a province or territory of Canada)

Fiscal year end date: _____

Indicate, by checking the appropriate box, which of the following criteria the issuer meets:

- (a) At the fiscal year end date, the issuer has no securities listed or quoted on a marketplace located anywhere in the world; or
- (b) at the fiscal year end date, the issuer
 - (i) has securities listed or quoted on a marketplace anywhere in the world,
 - (ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the issuer for which the issuer or its transfer agent or registrar maintains a list of registered owners,
 - (iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,
 - (iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and
 - (v) has not issued any of its securities in Ontario in the last 5 years, other than
 - (A) to its employees or to employees of its subsidiary entities, or
 - (B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration.

Participation Fee \$960*

(From subsection 2.2(2) of the Rule)

** Note: The \$960 amount is proposed to rise to \$1,110, effective April 7, 2014, and to \$1,280, effective April 6, 2015.*

Late Fee, if applicable _____
(As determined under section 2.5 of the Rule)

FORM 13-502F3B
CLASS 3B REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before May 1, 2012, provided that it was a reporting issuer at the end of that fiscal year and, if it became a reporting issuer in that year as a consequence of a prospectus receipt, all or substantially all of its securities were listed or quoted on a marketplace at the end of that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Market value of securities:

Total number of securities of a class or series outstanding as at the end of the issuer's last completed reference fiscal year (i) _____

Simple average of the closing price of that class or series as of the last trading day of each month of the ~~last completed fiscal year~~ reference fiscal year, computed with reference to paragraph 2.9(1)(b) and subsection 2.9(2) of the Rule (ii) _____

Market value of class or series (i) x (ii) = _____ (A)

(Repeat the above calculation for each other listed or quoted class or series of securities of the reporting issuer) (B) _____

Capitalization for the last completed reference fiscal year (A) + (B) = _____
(Add market value of all classes and series of securities)

Participation Fee Otherwise Determined (C) _____
(From Appendix A A.1 of the Rule, select the participation fee beside the capitalization calculated above)

Participation Fee Payable

Did the issuer become a reporting issuer in the previous fiscal year as a result of a prospectus receipt?

If **no**, participation fee equals (C) amount above. _____ (C)

If **yes**, prorate (C) amount as calculated in subsection 2.2(3.1) of the Rule. _____ (D)

Participation Fee Payable

1/3 of (C) or \$960, whichever is greater
(See subsection 2.2(3) of the Rule)

Late Fee, if applicable
(As determined under section 2.5 of the Rule) _____

FORM 13-502F3C
CLASS 3C REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before May 1, 2012, provided that it was a reporting issuer at the end of that fiscal year and, if it became a reporting issuer in that year as a consequence of a prospectus receipt, all or substantially all of its securities were listed or quoted on a marketplace at the end of that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Section 2.10 of the Rule requires Class 3C reporting issuers to calculate their market capitalization in accordance with section 2.7 of the Rule.

Market value of listed or quoted securities:

Total number of securities of a class or series outstanding as at the end of the issuer's last completed reference fiscal year (i) _____

Simple average of the closing price of that class or series as of the last trading day of each month of the last completed fiscal year (See reference fiscal year, computed with reference to clauses 2.7(1)(a)(ii)(A) and (B) and subsection 2.7(2) of the Rule) (ii) _____

Market value of the class or series (i) x (ii) = _____ (A)

(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the last completed reference fiscal year) _____ (B)

Market value of other securities not valued at the end of any trading day in a month: _____ (C)

(See paragraph 2.7(1)(b) of the Rule) _____

(Provide details of how value was determined)

(Repeat for each other class or series of securities to which paragraph 2.7(1)(b) of the Rule applies) _____ (D)

Capitalization for the last completed reference fiscal year (A) + (B) + (C) + (D) = _____ (E)

(Add market value of all classes and series of securities) _____

Participation Fee (determined without reference to subsections 2.2(3.1) of the Rule)

(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) _____

Did the issuer become a reporting issuer in the previous fiscal year as a result of a prospectus receipt? If no, participation fee equals (E) amount above. _____ (E)

If yes, prorate (E) amount as calculated in subsection 2.2(3.1) of the Rule to determine participation fee. _____ (F)

Late Fee, if applicable

As determined under section 2.5 of the Rule)

**FORM 13-502F4
CAPITAL MARKETS PARTICIPATION FEE CALCULATION**

General Instructions

1. This form must be completed and returned to the Ontario Securities Commission by December 1 each year, as per section 3.2 of OSC Rule 13-502 *Fees* (the Rule), except in the case where firms register after December 1 in a calendar year or provide notification after December 1 in a calendar year of their status as exempt international firms. In these exceptional cases, this ~~Form~~ form must be filed as soon as practicable after December 1.
2. This form is to be completed by firms registered under the *Securities Act* or by firms that are registered under both the *Securities Act* and the *Commodity Futures Act*. This form is also completed by exempt international firms relying on section 8.18 [international dealer] and 8.26 [international adviser] of NI 31-103, as well as by firms that are unregistered investment fund managers (as defined in the Rule).
3. For firms registered under the *Commodity Futures Act*, the completion of this form will serve as an application for the renewal of both the firm and all its registered individuals wishing to renew under the *Commodity Futures Act*.
4. IIROC members must complete Part I of this ~~Form~~ form and MFDA members must complete Part II. Exempt international firms, unregistered investment fund managers and registrant firms that are not IIROC or MFDA members must complete Part III.
5. The components of revenue reported in each Part should be based on accounting standards pursuant to which an entity's financial statements are prepared under Ontario securities law ("Accepted Accounting Standards"), except that revenues should be reported on an unconsolidated basis.
6. IIROC Members may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.
7. MFDA members may refer to Statement D of the MFDA Financial Questionnaire and Report for guidance.
8. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario for the firm's ~~most recently completed~~ reference fiscal year, ~~which is generally referred to in the Rule as its "previous."~~ A firm's reference fiscal year is generally its last fiscal year ending before May 1, 2012. For further detail, see the definition of "reference fiscal year" in section 1.1 of the Rule.
9. If a firm's permanent establishments are situated only in Ontario, all of the firm's total revenue for a fiscal year is attributed to Ontario. If permanent establishments are situated in Ontario and elsewhere, the percentage attributed to Ontario for a fiscal year will ordinarily be the percentage of the firm's taxable income that is allocated to Ontario for Canadian income tax purposes for the same fiscal year. For firms that do not have a permanent establishment in Ontario, the percentage attributable to Ontario will be based on the proportion of total revenues generated from capital markets activities in Ontario.
10. All figures must be expressed in Canadian dollars and rounded to the nearest thousand.
11. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy. However, it is acceptable to provide certification of this nature by only one member of senior management in cases of firms with only one officer and director.
12. ~~There are a number of references in this form to "relevant fiscal year". The "relevant fiscal year" is generally a firm's last completed fiscal year. However, if good faith estimates for a fiscal year are provided in this Form pursuant to section 3.5 of the Rule, the relevant fiscal year is the fiscal year for which the good faith estimates are provided.~~

1. Firm Information

Firm NRD number: _____

Firm legal name: _____

2. Contact Information for Chief Compliance Officer

Please provide the name, e-mail address, phone number and fax number for your Chief Compliance Officer.

Name: _____

E-mail address: _____

Phone: _____ Fax: _____

3. Membership Status (one selection)

- The firm is a member of the Mutual Fund Dealers Association (MFDA).
- The firm is a member of the Investment Industry Regulators Organization of Canada (IIROC).
- The firm does not hold membership with the MFDA nor IIROC.

4. Financial Information

Is the firm providing a good faith estimate under section 3.5 of the Rule?

- Yes
- No (one selection)

If no, end date of ~~last completed~~ reference fiscal year: ____/____/____
 yyyy mm dd

If yes, end date of fiscal year for which the good faith estimate is provided:

____/____/____
 yyyy mm dd

Note: The fiscal year identified above is referred to below as the relevant fiscal year.

5. Participation Fee Calculation

Relevant Reference fiscal year
 \$

Note: Dollar amounts stated in thousands, rounded to the neared thousand.

Part I – IIROC Members

- 1. Total revenue for relevant reference fiscal year from Statement E of the Joint Regulatory Financial Questionnaire and Report _____
- 2. Less revenue not attributable to capital markets activities _____
- 3. Revenue subject to participation fee (line 1 less line 2) _____
- 4. Ontario percentage for relevant reference fiscal year _____
 (See definition of “Ontario percentage” in the Rule) %
- 5. Specified Ontario revenues (line 3 multiplied by line 4) _____
- 6. Participation fee _____
 (From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)

Part II – MFDA Members

- 1. Total revenue for relevant reference fiscal year from Statement D of the MFDA Financial Questionnaire and Report _____
- 2. Less revenue not attributable to capital markets activities _____
- 3. Revenue subject to participation fee (line 1 less line 2) _____

4.	Ontario percentage for relevant <u>reference</u> fiscal year	
	(See definition of “Ontario percentage” in the Rule)	%
5.	Specified Ontario revenues (line 3 multiplied by line 4)	
6.	Participation fee	
	(From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	

Part III – Advisers, Other Dealers, and Unregistered Capital Markets Participants

Notes:

1. Gross revenue is defined as the sum of all revenues reported on the audited financial statements, except where unaudited financial statements are permitted in accordance with subsection 3.4(4) or (5) of the Rule. Audited financial statements should be prepared in accordance with Accepted Accounting Standards, except that revenues should be reported on an unconsolidated basis. Items reported on a net basis must be adjusted for purposes of the fee calculation.
2. Redemption fees earned upon the redemption of investment fund units sold on a deferred sales charge basis are permitted as a deduction from total revenue on this line.
3. Administration fees permitted as a deduction are limited solely to those that are otherwise included in gross revenue and represent the reasonable recovery of costs from the investment funds for operating expenses paid on their behalf by the registrant firm or unregistered capital markets participant.
4. Where the advisory services of a registrant firm, within the meaning of this Rule or OSC Rule 13-503 (*Commodity Futures Act*) Fees, or of an exempt international firm, are used by the person or company to advise on a portion of its assets under management, such sub-advisory costs are permitted as a deduction on this line to the extent that they are otherwise included in gross revenues.
5. Trailer fees paid to registrant firms described in note 4 are permitted as a deduction on this line to the extent they are otherwise included in gross revenues.

1.	Gross revenue for relevant <u>reference</u> fiscal year (note 1)	
----	--	--

Less the following items:

- | | | |
|-----|---|---|
| 2. | Revenue not attributable to capital markets activities | |
| 3. | Redemption fee revenue (note 2) | |
| 4. | Administration fee revenue (note 3) | |
| 5. | Advisory or sub-advisory fees paid to registrant firms or exempt international firms (note 4) | |
| 6. | Trailer fees paid to registrant firms (note 5) | |
| 7. | Total deductions (sum of lines 2 to 6) | |
| 8. | Revenue subject to participation fee (line 1 less line 7) | |
| 9. | Ontario percentage for relevant <u>reference</u> fiscal year | % |
| | (See definition of “Ontario percentage” in the Rule) | |
| 10. | Specified Ontario revenues (line 8 multiplied by line 9) | |
| 11. | Participation fee | |

(From Appendix B of the Rule, select the participation fee beside the specified Ontario revenues calculated above)

Part IV – Management Certification

Where available, we have examined the financial statements on which the participation fee calculation is based and certify that, to the best of our knowledge, the financial statements present fairly the revenues of the firm for the period ended as noted under Financial Information above, and that the financial statements have been prepared in agreement with the books of the firm.

We certify that the reported revenues of the firm are complete and accurate and in accordance with generally accepted accounting principles.

	Name and Title	Signature	Date
1.	_____	_____	_____
2.	_____	_____	_____

FORM 13-502F5
ADJUSTMENT OF FEE FOR REGISTRANT FIRMS AND UNREGISTERED EXEMPT INTERNATIONAL FIRMS

Firm name: _____

End date of last completed fiscal year: _____

Note: Subsection 3.5(2) of the Rule requires that this Form must be filed concurrent with a completed Form 13-502F4 that shows the firm's actual participation fee calculation.

1. Estimated participation fee paid under subsection 3.5(1) of the Rule: _____

2. Actual participation fee calculated under paragraph 3.5(2)(b) of the Rule: _____

3. Refund due (Balance owing): _____

(Indicate the difference between lines 1 and 2)

**FORM 13-502F6
SUBSIDIARY ENTITY EXEMPTION NOTICE**

Name of Subsidiary Entity: _____

Name of Parent: _____

End Date of Subsidiary Entity's Last Completed ~~Reference~~ Fiscal Year: _____

End Date of Subsidiary Entity's Reference Fiscal Year: _____

(A subsidiary entity's reference fiscal year is generally its last fiscal year ending before May 1, 2012, provided that it was a reporting issuer at the end of that fiscal year. In any other case, it is the subsidiary entity's last completed fiscal year.)

Indicate below which exemption the subsidiary entity intends to rely on by checking the appropriate box:

1. Subsection 2.6(1)

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(1) of the Rule:

- a) at the end of the subsidiary entity's last ~~completed~~ reference fiscal year, the parent of the subsidiary entity was a reporting issuer;
- b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;
- c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's last ~~completed~~ reference fiscal year;
- d) the market capitalization of the subsidiary entity for the last ~~completed~~ reference fiscal year was included in the market capitalization of the parent for the last ~~completed~~ reference fiscal year; and
- e) the net assets and total revenues of the subsidiary entity for its last ~~completed~~ reference fiscal year represented more than 90 percent of the consolidated net assets and total revenues of the parent for the parent's last ~~completed~~ reference fiscal year.

	Net Assets for last completed <u>reference</u> fiscal year	Total Revenues for last completed <u>reference</u> fiscal year	
Reporting Issuer (Subsidiary Entity)	_____	_____	(A)
Reporting Issuer (Parent)	_____	_____	(B)
Percentage (A/B)	_____ %	_____ %	

2. Subsection 2.6(2)

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(2) of the Rule:

- a) at the end of the subsidiary entity's last ~~completed~~ reference fiscal year, the parent of the subsidiary entity was a reporting issuer;
- b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;
- c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's last ~~completed~~ reference fiscal year;
- d) the market capitalization of the subsidiary entity for the last ~~completed~~ reference fiscal year was included in the market capitalization of the parent for the last ~~completed~~ reference fiscal year; and

- e) throughout the ~~last completed~~previous fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of NI 51-102 *Continuous Disclosure Obligations*.

FORM 13-502F7
SPECIFIED REGULATED ENTITIES – PARTICIPATION FEE

Name of Specified Regulated Entity: _____

Applicable calendar year: _____ (2013 or later)

Type of Specified Regulated Entity:
(check one)

- Specified market operator, including recognized exchange
- Exempt exchange
- Alternative trading system
- Recognized clearing agency
- Exempt clearing agency
- Trade Repository

Participation Fee for applicable calendar year

\$

(From Part 3.1 of the Rule and Appendix B.1)

1¢

Late Fee, if applicable

(From section 3.1.2 of the Rule)

FORM 13-502F8
DESIGNATED RATING ORGANIZATIONS – PARTICIPATION FEE

Name of Designated Rating Organization: _____

Fiscal year end date: _____

Participation Fee in respect of the fiscal year \$15,000

(From subsection 3.2.1(1) of the Rule)

Late Fee, if applicable

(From section 3.2.2 of the Rule)

**ANNEX B
BLACKLINE SHOWING PROPOSED CHANGES TO
ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-502CP FEES**

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**ONTARIO SECURITIES COMMISSION
PROPOSED COMPANION POLICY 13-502CP FEES**

PART 1 – PURPOSE OF COMPANION POLICY

- 1.1 Purpose of Companion Policy** – The purpose of this Companion Policy is to state the views of the Commission on various matters relating to OSC Rule 13-502 *Fees* (the “Rule”), including an explanation of the overall approach of the Rule and a discussion of various parts of the Rule.

PART 2 – PURPOSE AND GENERAL APPROACH OF THE RULE

2.1 Purpose and General Approach of the Rule

- (1) The purpose of the Rule is to establish a fee regime that creates a clear and streamlined fee structure.
- (2) The fee regime of the Rule is based on the concepts of “participation fees” and “activity fees”.

2.2 Participation Fees

- (1) Reporting issuers, registrant firms and unregistered capital markets participants, as well as specified regulated entities and designated rating organizations, are required to pay participation fees annually. For the purposes of the Rule, “unregistered capital markets participants” are defined to mean “unregistered investment fund managers” and “unregistered exempt international firms”. The Subject to exceptions applying to an investment fund manager that has no place of business in Ontario, the Rule defines an “unregistered investment fund manager” to mean an “investment fund manager” that is not registered under the Act. (The term “investment fund manager” is defined in subsection 1(1) of the Act to mean “a person or company that directs the business, operations or affairs of an investment fund”).

The Rule defines “unregistered exempt international firms” to mean a dealer or adviser that is not registered under the Act and is:

- (a) exempt from the dealer registration requirement and the underwriter registration requirement only because of section 8.18 [International dealer] of NI 31-103;
- (b) exempt from the adviser registration requirement only because of section 8.26 [International adviser] of NI 31-103; or
- (c) exempt from ~~the~~ each of the dealer registration requirement, the underwriter registration requirement and the adviser registration requirement only because of sections 8.18 [International dealer] and 8.26 [International adviser] of NI 31-103.

The term “dealer” is, in turn, defined in subsection 1(1) of the Act to mean “a person or company engaging in or holding himself, herself or itself out as engaging in the business of trading in securities”. Similarly, an adviser is defined in that subsection to mean “a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities”.

- (1.1) Participation fees are designed to cover the Commission’s costs not easily attributable to specific regulatory activities. The participation fee required of a market participant under Parts 2 of 3 of the Rule is based on a measure of the market participant’s size, which is used as a proxy for its proportionate participation in the Ontario capital markets. In the case of a reporting issuer, the participation fee is based on the issuer’s capitalization, which is used to approximate its proportionate participation in the Ontario capital markets. In the case of a registrant firm or unregistered capital markets participant, the participation fee is based on the firm’s revenues attributable to its capital markets activity in Ontario.
- (~~2~~1.2) Participation fees under Part 3.1 of the Rule are generally fixed annual amounts payable each calendar year. In the case of specified regulated entities to which Part 3.1 of the Rule applies, participation fees are generally specified for a particular organization or type of organization in Appendix B.1. The level of participation fees for recognized clearing agencies is determined by references to the services they provide.
- (1.3) Participation fees for designated rating organizations under Part 3.2 of the Rule are \$15,000 per fiscal year.

(2) Participation fees under Parts 2 and 3 are determined with reference to capitalization or revenue from a market participant's "previous reference fiscal year", which is essentially, As defined in section 1.1 of the Rule as the, a market participant's "reference fiscal year" is generally the market participant's last fiscal year ending before May 1, 2012. There are two exceptions:

(a) where the market participant was not a reporting issuer, registrant firm or unregistered investment fund manager at the end of that fiscal year; and

(b) where the participant became a reporting issuer in that fiscal year by reason of being issued a receipt under the Act and all or substantially of its securities were not listed or quoted on a marketplace at the end of that fiscal year.

In these two cases, the participant's reference fiscal year is its last completed fiscal year at or before the time the participation fee is required to be paid. (which is defined in section 1.1 of the Rule as the market participant's "previous fiscal year"). In cases where the participant falls within an exception described in paragraph (a) or (b) above, the participation fee is determined with reference to the "previous fiscal year" (which advances from year to year), rather than with reference to a static "reference fiscal year". For example, for the purposes of subsection 3.1(1) of the Rule, if a new firm is registered in Ontario in 2013 and has annual fiscal years ending on March 31, its reference fiscal years for the 2013, 2014 and 2015 calendar years would be March 31, 2013, 2014 and 2015 respectively.

2.3 Application of Participation Fees – Although participation fees are determined by using with reference to information from a fiscal year of the payor ending before the time of their payment, ~~both corporate finance and capital markets participation fees~~ they are applied to the costs of the Commission of regulating the ongoing participation in Ontario's capital markets of the payor and other market participants.

2.4 Registered Individuals – The participation fee is paid at the firm level under the Rule. ~~That is~~ For example, a "registrant firm" is required to pay a participation fee, not an individual who is registered as a representative of the firm.

2.5 Activity Fees – 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 C of the Rule are considered in determining these fees (e.g., reviewing prospectuses, 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.

2.5.1 Additional Activity Fees in Special Circumstances – Variable cost-based activity fees for certain applications and reviews specified in sections E, E.1 and E.2 of Appendix C, involving exchanges, alternative trading systems and clearing agencies, may be payable where the "designated cost" of work exceeds \$300,000. The additional fee is levied to help recover the Commission's costs in non-routine, novel or complex regulatory filings. The administration of these additional fees is addressed in Part 6 of this Policy.

2.6 Registrants under the Securities Act and the Commodity Futures Act

(1) The Rule imposes an obligation to pay a participation fee on registrant firms, defined in the Rule as a person or company registered under the Act as a dealer, adviser or investment fund manager. An entity so registered may also be registered as a dealer or adviser under the *Commodity Futures Act*. Given the definition of "capital markets activities" under the Rule, the revenue of such an entity from its *Commodity Futures Act* activities must be included in its calculation of revenues when determining its fee under the Rule. Section 2.8 of OSC Rule 13-503 (*Commodity Futures Act*) Fees exempts such an entity from paying a participation fee under that rule if it has paid its participation fees under the *Securities Act* Rule.

(2) Note that dealers and advisers registered under the *Commodity Futures Act* are subject to activity fees under OSC Rule 13-503 (*Commodity Futures Act*) Fees even if they are not required to pay participation fees under that rule.

2.7 No Refunds

(1) Generally, a person or company that pays a fee under the Rule is not entitled to a refund of that fee. For example, there is no refund available for an activity fee paid in connection with an action that is subsequently abandoned by the payor of the fee. Also, there is no refund available for a participation fee paid by a reporting issuer, registrant firm or unregistered capital markets participant that loses that status later in the fiscal year in respect of which the fee was paid.

- (2) An exception to this principle is provided in subsections 2.6.1(3) and 3.5(3) of the Rule. These subsections allow for a refund where a registrant firm overpaid an estimated participation fee.
- (3) The Commission will also consider requests for adjustments to fees paid in the case of incorrect calculations made by fee payors.

2.8 Indirect Avoidance of Rule – The Commission may examine arrangements or structures implemented by market participants and their affiliates that raise the suspicion of being structured for the purpose of reducing the fees payable under the Rule. For example, the Commission will be interested in circumstances in which revenues from registrable activities carried on by a corporate group are not treated as revenues of a registrant firm, thereby possibly artificially reducing the firm's specified Ontario revenues and, consequently, its participation fee.

PART 3 – CORPORATE FINANCE PARTICIPATION FEES

3.1 Application to Investment Funds – Part 2 of the Rule does not apply to an investment fund if the investment fund has an investment fund manager. The reason for this is that under Part 3 of the Rule an investment fund's manager must pay a capital markets participation fee in respect of revenues generated from managing the investment fund.

3.2 Late Fees – Section 2.5 of the Rule requires a reporting issuer to pay an additional fee when it is late in paying its participation fee. Reporting issuers should be aware that the late payment of participation fees may lead to the reporting issuer being noted in default and included on the list of defaulting reporting issuers available on the Commission's website.

3.3 Exemption for Subsidiary Entities – Under section 2.6 of the Rule, an exemption from participation fees is available to a reporting issuer that is a subsidiary entity if, among other requirements, the parent of the subsidiary entity has paid a participation fee applicable to the parent under section 2.2 of the Rule determined with reference to the parent's capitalization for the parent's fiscal year. For greater certainty, this condition to the exemption is not satisfied in circumstances where the parent of a subsidiary entity has paid a fixed participation fee in reliance on subsection 2.2(2) or (3) of the Rule in lieu of a participation fee determined with reference to the parent's capitalization for its fiscal year.

3.4 Determination of Market Value

- (1) Section 2.7 of the Rule requires the calculation of the capitalization of a Class 1 reporting issuer to include the total market value of classes of securities that may not be listed or quoted on a marketplace, but trade over the counter or, after their initial issuance, are otherwise generally available for sale. Note that the requirement that securities be valued in accordance with market value excludes from the calculation securities that are not normally traded after their initial issuance. In addition, also note that, if the issuer became a reporting issuer pursuant to clause (b) of the definition of "reporting issuer" in subsection 1(1) of the Act in its reference year because of being issued a prospectus receipt, month-end valuations do not include those before the issuer's securities were listed or quoted on a marketplace.
- (2) When determining the value of securities that are not listed or quoted in any relevant month, a reporting issuer should use the best available source for pricing the securities. That source may be one or more of the following:
 - (a) pricing services,
 - (b) quotations from one or more dealers, or
 - (c) prices on recent transactions.
- (3) Note that market value calculation of a class of securities included in a calculation under section 2.7 of the Rule includes all of the securities of the class, even if some of those securities are still subject to a hold period or are otherwise not freely tradable.
- (4) If the closing price of a security on a particular date is not ascertainable because there is no trade on that date or the marketplace does not generally provide closing prices, a reasonable alternative, such as the most recent closing price before that date, the average of the high and low trading prices for that date, or the average of the bid and ask prices on that date is acceptable.

3.5 Owners' Equity and Non-Current Borrowings – A Class 2 reporting issuer calculates its capitalization on the basis of certain items reflected in its audited statement of financial position. Two such items are "share capital or owners' equity" and "non-current borrowings, including the current portion". The Commission notes that "owners' equity" is

designed to describe the equivalent of share capital for non-corporate issuers, such as partnerships or trusts. “Non-current borrowings” is designed to describe the equivalent of long term debt or any other borrowing of funds beyond a period of twelve months.

- 3.6 Identification of Non-Current Liabilities** – If a Class 2 reporting issuer does not present current and non-current liabilities as separate classifications on its statement of financial position, the reporting issuer will still need to classify these liabilities for purposes of its capitalization calculation. In these circumstances non-current liabilities means total liabilities minus current liabilities, using the meanings ascribed to those terms under the accounting standards pursuant to which the entity’s financial statements are prepared under Ontario securities law.

PART 4 – CAPITAL MARKETS PARTICIPATION FEES

- 4.1 Passing on of Participation Fees** Capital markets participation fees are payable annually by registrant firms and “unregistered exempt international firms”, as defined in section 1.1 of the Rule. The capital markets participation fees represent, in general, their costs of participating in Ontario’s capital markets and should be paid and borne by them.

- 4.2 Filing Forms under Section 3.5 of the Rule** – If the estimated participation fee paid under subsection 3.5(1) of the Rule by a registrant firm or unregistered exempt international firm does not differ from its true participation fee determined under paragraph 3.5(2)(b) of the Rule, the registrant firm is not required to file either a Form 13-502F4 or a Form 13-502F5 under paragraph 3.5(2)(d) of the Rule.

- 4.24.3 Late Fees** – Section 3.6 of the Rule prescribes an additional fee if a participation fee is paid late. The Commission and the Director will, in appropriate circumstances, consider tardiness in the payment of fees as a matter going to the fitness for registration of a registrant firm. The Commission may also consider measures in the case of late payment of fees by an unregistered capital markets participant, such as: in the case of an unregistered investment fund manager, prohibiting the manager from continuing to manage any investment fund or cease trading the investment funds managed by the manager; or, in the case of an unregistered exempt international firm, making an order pursuant to section 127 of the Act, that the corresponding exemptions from registration requirements under which the firm acts do not apply to the firm (either permanently or for such other period as specified in the order).

- 4.34.4 Form of Payment of Fees** – Registrant firms pay through the National Registration Database. Unregistered capital markets participants investment fund managers make filings and pay fees under Part 3 of the Rule by paper copy. The filings and payment for unregistered investment fund managers should be addressed to the Ontario Securities Commission (Attention: Manager, Investment Funds). The filings and payments for unregistered exempt international firms should be sent to the Ontario Securities Commission (Attention: Manager, Registrant Regulation).

4.44.5 “Capital markets activities”

- (1) A person or company must consider its capital markets activities when calculating its participation fee. The term “capital markets activities” is defined in the Rule to include “activities for which registration under the Act or an exemption from registration is required”. The Commission is of the view that these activities include, without limitation, carrying on the business of trading in securities, carrying on the business of an investment fund manager, providing securities-related advice or portfolio management services. The Commission notes that corporate advisory services may not require registration or an exemption from registration and would therefore, in those contexts, not be capital markets activities.
- (2) The definition of “capital markets activities” also includes activities for which registration or an exemption from registration under the *Commodity Futures Act* is required. The Commission is of the view that these activities include, without limitation, trading in commodity futures contracts, carrying on the business of providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.

- 4.54.6 Permitted Deductions** – Subsection 3.4(3) of the Rule permits certain deductions to be made for the purpose of calculating specified Ontario revenues for unregistered capital markets participants and registrant firms. The purpose of these deductions is to prevent the “double counting” of revenues that would otherwise occur.

- 4.6 Application to Non-resident Unregistered Investment Fund Managers** – For greater certainty, the Commission is of the view that Part 3 of the Rule applies to non-resident unregistered investment fund managers managing investment funds distributed in Ontario on a prospectus exempt basis.

- 4.7 Active solicitation** – For the purposes of the definition of “unregistered investment fund manager” in section 1.1 of the Rule, “active solicitation” refers to intentional actions taken by the investment fund or the investment fund manager to encourage a purchase of the fund’s securities, such as pro-active, targeted actions or communications that are initiated

by an investment fund manager for the purpose of soliciting an investment. Actions that are undertaken by an investment fund manager at the request of, or in response to, an existing or prospective investor who initiates contact with the investment fund manager would not constitute active solicitation.

4.74.8 Change of Status of Unregistered Investment Fund Managers – Subsection 3.1(4) of the Rule reduces the participation fee otherwise payable after the end of a fiscal year under subsection 3.1(2) of the Rule by an unregistered investment fund manager that becomes a registrant firm. The reduction takes into account the imposition of a participation fee payable by registrant firms under subsection 3.1(1) of the Rule on December 31 of a calendar year and generally prevents the imposition of total participation fees in excess of total participation fees that would have been charged had there been no change of registration status.

4.84.9 Confidentiality of Forms – The material filed under Part 3 of the Rule will be kept confidential. The Commission is of the view that the material contains intimate financial, commercial and technical information and that the interests of the filers in non-disclosure outweigh the desirability of the principle that the material be available for public inspection.

PART 5 – OTHER PARTICIPATION FEES

5.1 General – Participation fees are also payable annually by specified regulated entities and designated rating organizations under Parts 3.1 and 3.2 of the Rule.

5.2 Specified Regulated Entities – The calculation of participation fees under Part 3.1 of the Rule is generally determined with reference to named entities or classes or entities. The entities or classes, and their level of participation fees, are set out in Appendix B.1 of the Rule.

5.3 Designated Rating Organizations– The participation fees for designated rating organizations are a flat \$15,000 per fiscal year.

PART 6 – VARIABLE COST-BASED ACTIVITY FEE PAYABLE IN SPECIAL CIRCUMSTANCES

6.1 General – A variable cost-based activity fee may be charged under section 4.1.1 of the Rule with regard to specified applications and reviews described in sections E, E.1 and E.2 of Appendix C (relating to exchanges, alternative trading systems and clearing agencies), but only where the designated cost of the work is \$300,000 or greater. It is expected that variable cost-based activity fees will only apply in rare cases.

6.2 Standard activity fees – Each filer will be required to pay the fee associated with the relevant matter described in section E, E.1 or E.2 of Appendix C. If OSC staff expect that a particular filing described in section E, E.1 or E.2 of Appendix C may be one to which the variable cost-based activity fee may apply due to its anticipated complexity, the filer will be so advised. OSC staff would also advise the applicant as to the expected scale and duration of the work it anticipates.

6.3 Designated cost of work – As set out in subsection 4.1.1(4) of the Rule, the designated cost of work done by OSC staff is the product of \$140 and the number of complete hours worked by specified OSC staff in connection with the specified filing. A filer is also responsible for any fees incurred by the Commission in retaining external legal counsel or external experts in relation to the matter under review.

6.4 Instalments – Depending on the circumstances, a filer may be required to pay the variable cost-based activity fee in instalments. The amount and frequency of the instalments depends on the complexity of the filing, the expected duration of the review, the internal Commission resources necessary for completion of the review, the amount of the activity fee already paid by the applicant and any other relevant consideration. Such factors will be discussed with the filer at the time when OSC staff identify that the additional fee may be applicable. These terms may be reconsidered and/or revised during the course of the review period, as appropriate.

6.5 Draft invoices – OSC staff intend to provide draft invoices relating to variable cost-based fees, prior to issuing the final invoices required by the Rule. The purpose of issuing a draft invoice is to give the filer an opportunity to put forward any basis as to why the fee reflected on the draft invoice should be lowered. If the filer does not make a submission within 30 days of receiving the draft invoice, the corresponding final invoice may be issued once reviewed first by the Director and then by Commission. Both the draft and final invoices would be expected to meet the requirements set out in subsection 4.1.1(5) of the Rule.

6.6 Review – The Director and the Commission may evaluate the fairness and appropriateness of amounts set out in a draft invoice in considering whether or not to lower the fee reflected on the draft invoice, giving consideration to any submission made by the filer in response to a draft invoice described in section 6.5 and other factors including:

- (a) the complexity of the matter;
- (b) the reasonableness of the time expended;
- (c) the expertise that was required, including whether external counsel or experts were retained by the Commission;
- (d) the filer's expectation as to fees based on estimate provided; and
- (e) any action taken by OSC staff, by external counsel or experts or by the applicant which caused a notable increase in the amount of work required.