

6.1.2 OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees

ONTARIO SECURITIES COMMISSION
RULE 13-502
FEES

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**ONTARIO SECURITIES COMMISSION
RULE 13-502
FEES**

PART 1 – DEFINITIONS

1.1 Definitions – In this Rule,

“capitalization” means, for a reporting issuer, the capitalization determined in accordance with section 2.11, 2.12, 2.13 or 2.14;

“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 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 reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and

- (a) has no securities listed or quoted on a marketplace located anywhere in the world, or
- (b) has securities listed or quoted on a marketplace anywhere in the world and
 - (i) at the end of its previous fiscal year, less than 1% of the outstanding securities of the reporting issuer were registered in the names of Ontario persons or companies,
 - (ii) there is no marketplace in Canada for any class or series of securities of the reporting issuer, and
 - (iii) there has been no distribution in Ontario of any class or series of securities of the reporting issuer in the last 5 years, other than to employees of the reporting issuer or employees of a subsidiary entity of the reporting issuer;

“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 of securities on marketplaces in Canada was less than the trading volume of its securities on marketplaces outside Canada over the reporting issuer’s previous fiscal year;

“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 of securities on marketplaces in Canada was greater than the trading volume of its securities on marketplaces outside Canada over the reporting issuer’s previous fiscal year;

“IDA” means the Investment Dealers Association of Canada;

“investment fund family” means two or more investment funds that have

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

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

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

“Ontario percentage” means, for a fiscal year of a person or company

- (a) that has a permanent establishment in Ontario, the percentage of the income of the person or company allocated to Ontario for the fiscal year in the corporate tax filings made for the person or company under the ITA, or
- (b) that does not have a permanent establishment in Ontario, the percentage of the total revenues of the person or company attributable to capital markets activities in Ontario;

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

“registrant firm” means a person or company registered as a dealer or an adviser under the Act;

“specified Ontario revenues” means, for a registrant firm or an unregistered investment fund manager, the revenues determined under section 3.3, 3.4 or 3.5;

“subsidiary entity” has the meaning ascribed to “subsidiary” under Canadian GAAP; and

“unregistered investment fund manager” means an investment fund manager that is not registered under the Act.

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 pay the participation fee shown in Appendix A opposite the capitalization of the reporting issuer, as determined under section 2.11, 2.12, 2.13 or 2.14.
- (2) Despite subsection (1), a Class 3A reporting issuer must pay a participation fee of \$600.
- (3) Despite subsection (1), a Class 3B reporting issuer must pay the greater of
 - (a) \$600, and
 - (b) 1/3 of the participation fee shown in Appendix A opposite the capitalization of the reporting issuer, as determined under subsection 2.13.

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 legislation, 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) Subject to subsection (2), a reporting issuer that is late in paying a participation fee under this Part must pay an additional fee of one percent of the participation fee for each business day on which the participation fee remains due and unpaid.
- (2) A reporting issuer is not required to pay a fee under this section in excess of 25 percent of the participation fee payable under this Part.

Division 2: Exceptions

2.6 Participation Fee for New Reporting Issuers

- (1) A person or company that is not a reporting issuer and has filed a prospectus that relates to a distribution of securities must pay a participation fee before the issuance of a receipt for the prospectus, calculated by multiplying
 - (a) the participation fee shown in Appendix A opposite the capitalization calculated under subsection (4), by
 - (b) the number of entire months remaining in the fiscal year of the person or company after it becomes a reporting issuer, divided by 12.
- (2) For the purposes of subsections (4) and (5), a person or company is deemed to be a reporting issuer.
- (3) For the purpose of subsection (4), a person or company is deemed to be a Class 1 reporting issuer if the person or company is incorporated or organized under the laws of Canada or a jurisdiction in Canada and reasonably believes that it will have securities listed or quoted on a marketplace in Canada or the United States of America within 30 days of becoming a reporting issuer.
- (4) The capitalization of a person or company referred to in subsection (1) is determined as provided under section 2.11, 2.12, 2.13 or 2.14, adjusted by
 - (a) for a Class 1, Class 3B or Class 3C reporting issuer, using the issue price of the securities being distributed under the prospectus, as disclosed in the prospectus, as the amount required to be calculated under subparagraph 2.11(a)(ii), paragraph 2.11(b), or paragraph 2.13(b);
 - (b) for a Class 2 reporting issuer, basing its capitalization on the audited financial statements for the most recent fiscal year contained in the prospectus; and
 - (c) assuming the completion of all distributions offered under the prospectus as at the date of filing of the prospectus.
- (5) A person or company that is not a reporting issuer and has filed a non-offering prospectus must pay a participation fee before the issuance of a receipt or an MRRS decision document for the prospectus, calculated by multiplying
 - (a) the participation fee shown in Appendix A opposite the capitalization calculated under section 2.12, using the audited financial statements for the most recent fiscal year contained in the prospectus; by
 - (b) the number of entire months remaining in the fiscal year of the person or company after it becomes a reporting issuer, divided by 12.
- (6) A person or company that becomes a reporting issuer, other than through the filing of a prospectus, must pay a participation fee within two business days of becoming a reporting issuer, calculated by multiplying
 - (a) for

- (i) a Class 1 reporting issuer, the participation fee shown in Appendix A opposite the capitalization calculated under section 2.11,
 - (ii) a Class 2 reporting issuer, the participation fee shown in Appendix A opposite the capitalization calculated under section 2.12,
 - (iii) a Class 3A reporting issuer, \$600,
 - (iv) a Class 3B reporting issuer, the greater of \$600 and one-third of the participation fee shown in Appendix A opposite the capitalization calculated under section 2.13,
 - (v) a Class 3C reporting issuer, the participation fee shown in Appendix A opposite the capitalization calculated under section 2.14; by
- (b) the number of entire months remaining in the fiscal year of the person or company after it becomes a reporting issuer, divided by 12.
- (7) For the purpose of subparagraphs (a)(i), (iv), and (v) of subsection (6), the value of each class or series of the reporting issuer's listed securities is calculated by multiplying the number of securities of the class or series outstanding by the closing price of the class or series on the day on which the listing occurred.
- (8) This section does not apply to a reporting issuer formed from a statutory amalgamation or arrangement, or to a person or company continuing from a transaction to which paragraph 2.11(1)(a) or (b) of National Instrument 45-106 *Prospectus and Registration Exemptions* applies, if the amalgamation, arrangement or other transaction occurs within a fiscal year of a predecessor issuer in which the predecessor issuer paid a participation fee under this Rule.

2.7 Participation Fee Exemption for New Reporting Issuers – Section 2.2 does not apply to a reporting issuer that has paid a participation fee under section 2.6 after its fiscal year end and before it is required to file financial statements in respect of that fiscal year end.

2.8 Participation Fee for an Issuer Ceasing to be a Reporting Issuer – An issuer that ceases to be a reporting issuer after its fiscal year end and before it has paid its participation fee under this Rule, must pay a participation fee immediately before the time that it ceases to be a reporting issuer, calculated by multiplying

- (a) the participation fee that would be payable at the time required under section 2.3 if the issuer remained a reporting issuer; by
- (b) the number of entire months in the fiscal year before it submitted its application to cease to be a reporting issuer, divided by 12.

2.9 Participation Fee Exemption for Subsidiary entities

- (1) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity if
 - (a) a parent of the subsidiary entity is a reporting issuer,
 - (b) the parent has paid the participation fee applicable to the parent under section 2.2,
 - (c) the capitalization of the subsidiary entity was included in the calculation of the participation fee referred to in paragraph (b), and
 - (d) the net assets and gross revenues of the subsidiary entity represent more than 90 percent of the consolidated net assets and gross revenues of the parent for the most recently completed fiscal year of the parent.
- (2) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity if
 - (a) a parent of the subsidiary entity is a reporting issuer,
 - (b) the parent has paid the participation fee applicable to the parent under section 2.2,

- (c) the capitalization of the subsidiary entity was included in the calculation of the participation fee referred to in paragraph (b), and
 - (d) the subsidiary entity is 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.
- (4) If, under subsection (2), a reporting issuer has not paid a participation fee and any of paragraphs (2)(a), (b), (c) or (d) cease to apply, the reporting issuer must pay, as soon as practicable, a participation fee calculated by multiplying the participation fee prescribed under section 2.2 by the number of entire months remaining in the fiscal year of the issuer divided by 12.

2.10 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, 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 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 applicable fiscal year,
- (a) calculate its capitalization under section 2.12,
 - (b) pay the participation fee shown in Appendix A opposite the capitalization calculated under section 2.12, less the participation fee paid under subsection (1), and
 - (c) file a completed Form 13-502F2A.
- (3) If a reporting issuer paid an amount paid 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 3: Calculating Capitalization

2.11 Class 1 Reporting Issuers – The capitalization of a Class 1 reporting issuer is the aggregate of

- (a) the average market value over the previous 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 previous fiscal year, by
 - (ii) the simple average of the closing prices of the class or series on the last trading day of each month of the previous fiscal year of the reporting issuer on
 - (A) the marketplace in Canada on which the highest volume of the class or series was traded in that fiscal year, or
 - (B) if the class or series was not traded on a marketplace in Canada, the marketplace in the United States of America on which the highest volume of the class or series was traded in that fiscal year; and
- (b) the market value at the end of the fiscal year, as determined by the reporting issuer in good faith, of each class or series of securities of the reporting issuer not referred to in 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.

2.12 Class 2 Reporting Issuers

- (1) The capitalization of a Class 2 reporting issuer is the aggregate of each of the following items, as shown in its audited balance sheet 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) long term debt, including the current portion;
 - (e) capital leases, including the current portion;
 - (f) minority or non-controlling interest;
 - (g) items classified on the balance sheet between current liabilities and shareholders' equity, and not otherwise referred to in this subsection;
 - (h) any other item forming part of shareholders' 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 fiscal year, if the reporting issuer is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

2.13 Class 3B Reporting Issuers – The capitalization of a Class 3B reporting issuer is the aggregate of the 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 reporting issuer's previous fiscal year, by
- (b) the simple average of the closing prices of the class or series on the last trading day of each month of the previous fiscal year on the marketplace on which the highest volume of the class or series was traded in that fiscal year.

2.14 Class 3C Reporting Issuers – The capitalization of a Class 3C reporting issuer at the end of a fiscal year is determined under section 2.11, as if it were a Class 1 reporting issuer.

2.15 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, a registrant firm must pay the participation fee shown in Appendix B opposite the registrant firm's specified Ontario revenue, as that revenue is calculated under section 3.3, 3.4 or 3.5.

- (2) Not later than 90 days after the end of a fiscal year, an unregistered investment fund manager must pay the participation fee shown in Appendix B opposite the fund manager's specified Ontario revenue, as that revenue is calculated under section 3.4.

3.2 Disclosure of Fee Calculation

- (1) By December 1, a registrant firm must file a completed Form 13-502F4 showing the information required to determine the participation fee due on December 31.
- (2) At the time that it pays the 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 Revenue for IDA and MFDA Members

- (1) The specified Ontario revenue of a registrant firm that is a member of the IDA or the MFDA is calculated by multiplying the registrant firm's
 - (a) total revenue for the fiscal year ending on or before December 31 of the current year, less revenue not attributable to capital markets activities for the fiscal year; by
 - (b) Ontario percentage for the fiscal year.
- (2) For the purpose of paragraph (1)(a), "total revenue" means,
 - (a) for an IDA member, the amount shown as total revenue on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with the IDA by the registrant firm; and
 - (b) for an MFDA member, the amount shown as total revenue on Statement D of the MFDA Financial Questionnaire and Report filed with the MFDA by the registrant firm.

3.4 Specified Ontario Revenue for Others

- (1) The specified Ontario revenue of a registrant firm that is not a member of the IDA or the MFDA is calculated by multiplying the registrant firm's
 - (a) gross revenues, as shown in the audited financial statements prepared for the fiscal year ending on or before December 31 of the current year, less deductions permitted under subsection (3); by
 - (b) Ontario percentage for the fiscal year.
- (2) The specified Ontario revenue of an unregistered investment fund manager is calculated by multiplying the fund manager's
 - (a) gross revenues, as shown in the audited financial statements for its previous fiscal year, less deductions permitted under subsection (3); and
 - (b) Ontario percentage for the fiscal year.
- (3) For the purpose of paragraphs (1)(a) and (2)(a), a person or company may deduct the following from gross revenues:
 - (a) revenue not attributable to capital markets activities for the fiscal year;
 - (b) redemption fees earned during the fiscal year on the redemption of investment fund securities sold on a deferred sales charge basis;
 - (c) administration fees paid during the fiscal year 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 fiscal year by the person or company to a registrant firm, as "registrant firm" is defined in this Rule and in Rule 13-503 (*Commodity Futures Act*) Fees;

- (e) trailing commissions paid during the fiscal year by the person or company to a registrant firm.
- (4) Despite subsection (1), a registrant firm registered only as one or more of a limited market dealer, an international dealer or an international adviser 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 Revenue for Late Fiscal Year End

- (1) If the annual financial statements of a registrant firm have not been completed by December 1 in a year, the registrant firm must,
 - (a) on December 1, file a completed Form 13-502F4 showing a good faith estimate of the information required to calculate its specified Ontario revenue as at the end of the fiscal year; and
 - (b) on December 31, pay the participation fee shown in Appendix B opposite the Ontario specified revenue estimated under paragraph (a).
- (2) A registrant firm that estimated its specified Ontario revenue under subsection (1) must, when its annual financial statements for the applicable fiscal year have been completed,
 - (a) calculate its specified Ontario revenue under section 3.3 or 3.4, as applicable;
 - (b) determine the participation fee shown in Appendix B opposite the Ontario specified revenue calculated under paragraph (a); and
 - (c) complete a Form 13-502F4 reflecting the annual financial statements.
- (3) If the participation fee determined under subsection (2) differs from the participation fee paid under subsection (1), the registrant firm must, not later than 90 days after the end of its fiscal year,
 - (a) pay the participation fee determined under subsection (2), less the participation fee paid under subsection (1);
 - (b) file the Form 13-502F4 completed under subsection (2); and
 - (c) file a completed Form 13-502F5.
- (4) If a registrant firm paid an amount paid under subsection (1) that exceeds the participation fee determined under subsection (2), the registrant firm is entitled to a refund from the Commission of the amount overpaid.

3.6 Late Fee

- (1) Subject to subsection (2), a person or company that is late in paying a participation fee under this Part must pay an additional fee of one percent of the participation fee for each business day on which the participation fee remains due and unpaid.
- (2) A person or company is not required to pay a fee under subsection (1) in excess of 25 percent of the participation fee payable under this Part.

PART 4 – ACTIVITY FEES

- 4.1 **Activity Fees** – A person or company that files a document or takes an action listed in Appendix C must, concurrently with the filing of the document or taking of the action, pay the activity fee shown in Appendix C opposite the description of the document or action.
- 4.2 **Insider Report** – Despite section 4.1, a person or company that files a Form 55-102F2 *Insider Report* late must pay the activity fee shown in item M(2) of Appendix C upon receiving an invoice from the Commission.
- 4.3 **Investment Fund Families** – Despite section 4.1, only one activity fee must be paid for an application made by or on behalf of investment funds in an investment fund family, if the application pertains to each investment fund.

PART 5 – CURRENCY CONVERSION

- 5.1 **Canadian Dollars** – Any calculation of money required to be made under this Rule that results in a currency other than Canadian dollars must be converted into Canadian dollars at the daily noon exchange rate posted by the Bank of Canada website on the date for which the calculation is made.

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 – EFFECTIVE DATE

- 7.1 **Effective Date** – This Rule comes into force on April 3, 2006.

APPENDIX A – CORPORATE FINANCE PARTICIPATION FEES

| Capitalization | Participation Fee |
|--------------------------------------|--------------------------|
| under \$25 million | \$600 |
| \$25 million to under \$50 million | \$1,300 |
| \$50 million to under \$100 million | \$3,200 |
| \$100 million to under \$250 million | \$6,700 |
| \$250 million to under \$500 million | \$14,700 |
| \$500 million to under \$1 billion | \$20,500 |
| \$1 billion to under \$5 billion | \$29,700 |
| \$5 billion to under \$10 billion | \$38,300 |
| \$10 billion to under \$25 billion | \$44,700 |
| \$25 billion and over | \$50,300 |

APPENDIX B – CAPITAL MARKETS PARTICIPATION FEES

| Specified Ontario Revenues | Participation Fee |
|--------------------------------------|--------------------------|
| under \$500,000 | \$900 |
| \$500,000 to under \$1 million | \$3,100 |
| \$1 million to under \$3 million | \$6,900 |
| \$3 million to under \$5 million | \$13,200 |
| \$5 million to under \$10 million | \$27,200 |
| \$10 million to under \$25 million | \$55,500 |
| \$25 million to under \$50 million | \$83,100 |
| \$50 million to under \$100 million | \$167,600 |
| \$100 million to under \$200 million | \$279,500 |
| \$200 million to under \$500 million | \$565,000 |
| \$500 million to under \$1 billion | \$730,000 |
| \$1 billion to under \$2 billion | \$930,000 |
| \$2 billion and over | \$1,550,000 |

APPENDIX C - ACTIVITY FEES

| Document or Activity | Fee |
|--|--|
| A. Prospectus Filing | |
| 1. Preliminary or Pro Forma Prospectus in Form 41-501F1, (including if PREP procedures are used) | \$3,000 |
| <p><i>Notes:</i></p> <p>(i) <i>This applies to most issuers, including investment funds that prepare prospectuses in accordance with Form 41-501F1; investment funds that prepare prospectuses in accordance with Form 81-101F1, Form 15 or Form 45 will pay the fees shown in item 4 below.</i></p> <p>(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></p> | |
| 2. Additional fee for Preliminary or Pro Forma Prospectus in Form 41-501F1 of a resource issuer that is accompanied by engineering reports | \$2,000 |
| 3. Preliminary Short Form Prospectus in Form 44-101F3 (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 National Instrument 71-101 <i>The Multijurisdictional Disclosure System</i> . | \$3,000 |
| 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 | \$400 |
| <i>Note: Where a single prospectus document is filed on behalf of one or more investment funds, the applicable fee is payable for each investment fund.</i> | |
| (b) Preliminary or Pro Forma Prospectus in Form 15 | The greater of (i) \$3,000 per prospectus, and (ii) \$600 per investment fund in a prospectus. |
| (c) Preliminary or Pro Forma Prospectus in Form 45 | The greater of (i) \$3,000 per prospectus, and (ii) \$600 per investment fund in a prospectus. |
| <i>Note: Where a single prospectus document is filed on behalf of one or more investment funds, and the investment funds do not have similar investment objectives and strategies, \$3,000 is payable for each investment fund.</i> | |
| B. Fees relating to exempt distributions under Rule 45-501 Ontario Prospectus and Registration Exemptions and National Instrument 45-106 Prospectus and Registration Exemptions | |
| 1. Application for recognition, or renewal of recognition, as an accredited investor | \$500 |

| Document or Activity | Fee |
|---|---|
| <p>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>Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is an investment fund, where none of the members of the organization of the investment fund is subject to a participation fee.</p> | \$500 |
| <p>3. Filing of a rights offering circular in Form 45-101F</p> | <p>\$2,000 (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 National Instrument 45-106 Prospectus and Registration Exemptions</p> | \$2,000 |
| <p>D. Filing of Prospecting Syndicate Agreement</p> | \$500 |
| <p>E. Applications for Relief, Approval or Recognition</p> <p>1. Any application for relief, approval or recognition under any section of the Act, the Regulations or any Rule of the Commission not listed in item E(2), E(3) or E(4) below.</p> <p><i>Note: The following are included in the applications that are subject to a fee under this item:</i></p> <p>(i) <i>recognition of an exchange under section 21 of the Act, a self-regulatory organization under section 21.1 of the Act, a clearing house under section 21.2 of the Act or a quotation and trade reporting system under section 21.2.1 of the Act;</i></p> <p>(ii) <i>approval of a compensation fund or contingency trust fund under section 110 of the Regulations to the Act; and</i></p> <p>(iii) <i>approval of the establishment of a council, committee or ancillary body under section 21.3 of the Act.</i></p> | <p>\$3,000 for an application made under one section and \$5,000 for an application made under two or more sections (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 or Rule 13-503 (<i>Commodity Futures Act</i>) Fees).</p> <p>An application made under both the Act and the <i>Commodities Futures Act</i> does not require the applicant to pay an additional fee; i.e., the fee for an application under both statutes will not be greater than \$5,000 (or \$7,000 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 or Rule 13-503 (<i>Commodity Futures Act</i>) Fees).</p> |
| <p>2. An application for relief from any of the following:</p> <p>(a) Rule 13-502 Fees,</p> <p>(b) Rule 31-506 <i>SRO Membership – Mutual Fund Dealers</i>,</p> <p>(c) Rule 31-507 <i>SRO Membership – Securities Dealers and Brokers</i>,</p> <p>(d) Multilateral Instrument 31-102 <i>National Registration Database</i>,</p> <p>(e) Multilateral Instrument 33-109 <i>Registration Information</i>, and</p> <p>(f) Part 3 of Rule 31-502 <i>Proficiency</i>.</p> | \$1,500 |

| Document or Activity | Fee |
|---|--|
| 3. An application for relief from Part 2 of Rule 31-502 <i>Proficiency</i> . | \$800 |
| 4. Application <p>(a) under section 27, subsection 38(3), subsection 72(8) or section 83 of the Act or subsection 1(6) of the <i>Business Corporations Act</i>;</p> <p>(b) under section 144 of the Act for an order revoking a cease-trade order to permit trades solely for the purpose of establishing a tax loss in accordance with Commission Policy 57-602; and</p> <p>(c) 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 Rule 41-501 or National Instrument 81-101).</p> | Nil |
| 5. Application for relief from section 213 of the <i>Loan and Trust Corporations Act</i> . | \$1,500 |
| 6. (1) Application made under subsection 46(4) of the <i>Business Corporations Act</i> for relief from the requirements under Part V of that Act. (2) Application for consent to continue in another jurisdiction under paragraph 4(b) of the regulations to the <i>Business Corporations Act</i> . <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 Business Corporations Act to the Commission.</i> | \$400 |
| F. Pre-Filings <i>Note: The fee for a pre-filing will be credited against the applicable fee payable if and when the formal filing (e.g., an application or a preliminary prospectus) is actually proceeded with; otherwise, the fee is non-refundable.</i> | \$3,000 |
| G. Take-Over Bid and Issuer Bid Documents | |
| Filing of a take-over bid or issuer bid circular under subsection 100(3) or (7) of the Act | \$3,000 (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) |
| Filing of a notice of change or variation under subsection 100(4) of the Act | Nil |
| H. Filing an initial annual information form under National Instrument 44-101 | \$2,000 |
| I. Registration-Related Activity | |
| 1. New registration of a firm in any category of registration <i>Note: If a firm is registering as both a dealer and an adviser, it will be required to pay two activity fees.</i> | \$600 |

Request for Comments

| Document or Activity | Fee |
|--|------------------|
| 2. Change in registration category <i>Note: This would include 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, would be covered in the preceding section.</i> | \$600 |
| 3. Registration of a new director, officer or partner (trading and/or advising), salesperson or representative <i>Notes:</i> (i) <i>Registration of a new non-trading or non-advising director, officer or partner does not trigger an activity fee.</i> (ii) <i>If an individual is registering as both a dealer and an adviser, they will be required to pay two activity fees.</i> (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 provided that the individual's category of registration remains unchanged.</i> | \$200 per person |
| 4. Change in status from a non-trading and/or non-advising capacity to a trading and/or advising capacity | \$200 per person |
| 5. Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of registrant firms | \$2,000 |
| 6. Application for amending terms and conditions of registration | \$500 |
| J. Notice to Director under section 104 of the Regulation | \$3,000 |
| K. Request for certified statement from the Commission or the Director under section 139 of the Act | \$100 |
| L. Requests to the Commission | |
| 1. Request for a photocopy of Commission records | \$0.50 per page |
| 2. Request for a search of Commission records | \$150 |
| 3. Request for one's own Form 4 | \$30 |

| M. Late Filing | |
|--|--|
| <p>1. Fee for late filing of any of the following documents:</p> <ul style="list-style-type: none"> (a) Annual financial statements and interim financial statements; (b) Annual information form filed under National Instrument 51-102 <i>Continuous Disclosure Obligations</i>; (c) Form 45-501F1 or Form 45-106F1 filed by a reporting issuer; (d) Notice under Section 104 of the Regulation; (e) Report under Section 141 or 142 of the Regulation; (f) Filings for the purpose of amending Form 3 and Form 4 or Form 33-109F4 under Multilateral Instrument 33-109 <i>Registration Information</i>; (g) 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; (h) Form 13-502F4; (i) Form 13-502F5; and (j) Form 13-502F6. | <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 and an unregistered investment fund manager for all documents required to be filed within a calendar year) |
| <p>2. 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 within any one year beginning on April 1st and ending on March 31st.)</p> <p>The late fee does not apply to an insider if</p> <ul style="list-style-type: none"> (a) the head office of the issuer is located outside Ontario, and (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: _____

Fiscal year end date used
to calculate capitalization: _____

Market value of listed or quoted securities:

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

Simple average of the closing price of that class or series as of the last trading day of each month of the fiscal year (See clauses 2.11(a)(ii)(A) and (B) of the Rule) _____ (ii)

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

(Repeat the above calculation for each 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 fiscal year) _____ (B)

Market value of other securities:

(See paragraph 2.11(b) of the Rule)
(Provide details of how value was determined) _____ (C)

(Repeat for each class or series of securities) _____ (D)

Capitalization

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

Participation Fee

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

New reporting issuer's reduced participation fee, if applicable
(See section 2.6 of the Rule)

Participation fee X Number of entire months remaining
_____ in the issuer's fiscal year = _____
12

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: _____

Fiscal year end date used
to calculate capitalization: _____

Financial Statement Values:

(Use stated values from the audited financial statements of the reporting issuer as at its most recent audited year end)

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)

Long term debt (including the current portion) _____ (D)

Capital leases (including the current portion) _____ (E)

Minority or non-controlling interest _____ (F)

Items classified on the balance sheet between current liabilities and shareholders' equity (and not otherwise listed above) _____ (G)

Any other item forming part of shareholders' 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) _____

New reporting issuer's reduced participation fee, if applicable

(See section 2.6 of the Rule)

Participation fee X Number of entire months remaining
in the issuer's fiscal year = _____
12

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 2.10(2) of Rule 13-502: _____ (i)

Show calculation of actual capitalization based on audited financial statements:

Financial Statement Values:

(Use stated values from the audited financial statements of the reporting issuer as at its most recent audited year end)

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)

Long term debt (including the current portion) _____ (D)

Capital leases (including the current portion) _____ (E)

Minority or non-controlling interest _____ (F)

Items classified on the balance sheet between current liabilities and shareholders' equity (and not otherwise listed above) _____ (G)

Any other item forming part of shareholders' 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 13-502F3B
CLASS 3B REPORTING ISSUERS – PARTICIPATION FEE**

Reporting Issuer Name: _____

**Fiscal year end date used
to calculate capitalization:** _____

Market value of securities:

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

Simple average of the closing price of that class or series as of the last trading day of each month of the fiscal year (See section 2.13(b) of the Rule) _____ (ii)

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

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

Capitalization

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

Participation Fee

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

Fee Payable

1/3 of the participation fee or \$600, whichever is greater (See subsection 2.2(3) of the Rule) _____

New reporting issuer's reduced participation fee, if applicable
(See section 2.6 of the Rule)

Participation fee X Number of entire months remaining
_____ in the issuer's fiscal year = _____
12

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: _____

Fiscal year end date used to calculate capitalization: _____

Subsection 2.14 requires Class 3C reporting issuers to calculate their market capitalization in accordance with section 2.11.

Market value of listed or quoted securities:

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

Simple average of the closing price of that class or series as of the last trading day of each month of the fiscal year (See clauses 2.11(a)(ii)(A) and (B) of the Rule) _____ (ii)

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

(Repeat the above calculation for each 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 fiscal year) _____ (B)

Market value of other securities:

(See paragraph 2.11(b) of the Rule)
(Provide details of how value was determined) _____ (C)

(Repeat for each class or series of securities) _____ (D)

Capitalization

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

Participation Fee

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

New reporting issuer's reduced participation fee, if applicable

(See section 2.6 of the Rule)

| | | | | |
|-------------------|---|---|---|--|
| Participation fee | X | Number of entire months remaining in the issuer's fiscal year | = | |
| | | 12 | | |

Late Fee, if applicable

(As determined under section 2.5 of the Rule) _____

FORM 13-502F4
CAPITAL MARKETS PARTICIPATION FEE CALCULATION

Notes and Instructions

1. IDA members are required to complete Part I of the Form and MFDA members are required to complete Part II. Unregistered investment fund managers and registrant firms that are not IDA or MFDA members must complete Part III.
2. The components of revenue reported in each Part should be based on the same principles as the comparative statement of income which is prepared in accordance with generally accepted accounting principles ("GAAP"), or such equivalent principles applicable to the audited financial statements of international dealers and advisers and foreign investment fund managers, except that revenues should be reported on an unconsolidated basis. It is recognized that the components of the revenue classification may vary between firms. However, it is important that each firm be consistent between periods.
3. Members of the Investment Dealers Association of Canada may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.
4. Members of the Mutual Fund Dealers Association of Canada may refer to Statement D of the MFDA Financial Questionnaire and Report for guidance.
5. Comparative figures are required for the registrant firms' and unregistered investment fund managers' year end date.
6. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario. The percentage attributable to Ontario for the reported year end should be the provincial allocation rate used in the corporate tax return for the same fiscal period. 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.
7. All figures should be expressed in Canadian dollars and rounded to the nearest thousand.
8. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy.

Notes and Instructions for Part III

1. Gross revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements, except where unaudited financial statements are permitted in accordance with subsection 3.4(4) of the Rule. Audited financial statements should be prepared in accordance with GAAP, or such equivalent principles applicable to the audited financial statements of international dealers and advisers and foreign investment fund managers, 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. Gross revenues are reduced by amounts not attributable to capital markets activities.
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 from line 1 are limited solely to those that represent the recovery of costs from the investment funds for operating expenses paid on their behalf by the registrant firm or unregistered investment fund manager. Operating expenses include legal, audit, trustee, custodial and safekeeping fees, registrar and transfer agent charges, taxes, rent, advertising, unitholder services and financial reporting costs.
4. Where the advisory services of another registrant firm, within the meaning of this Rule or Rule 13-503 (*Commodity Futures Act*) Fees, 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.
5. Trailer fees paid to other registrant firms are permitted as a deduction on this line.

Participation Fee Calculation

Firm Name: _____

Fiscal year end: _____

Part I – IDA Members

| | Current Year \$ | Prior Year \$ (if available) |
|---|-----------------------|--|
| 1. Total revenue 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 (See definition in Rule) | _____% | _____% |
| 5. Specified Ontario revenue (line 3 multiplied by line 4) | _____ | _____ |
| 6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the Ontario specified revenue calculated above) | _____ | _____ |

Part II – MFDA Members

| | | |
|---|--------|--------|
| 1. Total revenue 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 (See definition in Rule) | _____% | _____% |
| 5. Specified Ontario revenue (line 3 multiplied by line 4) | _____ | _____ |
| 6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the Ontario specified revenue calculated above) | _____ | _____ |

Part III – Advisers, Other Dealers, and Unregistered Investment Fund Managers

1. Gross revenue (note 1) _____

Less the following items:

2. Revenue not attributable to capital markets activities _____

3. Redemption fees (note 2) _____

4. Administration fees (note 3) _____

5. Advisory or sub-advisory fees paid to registrant firms, as defined under this Rule and Rule 13-503 (*Commodity Futures Act*) Fees (note 4) _____

6. Trailer fees paid to other registrant firms (note 5) _____

Request for Comments

- 7. Total deductions (sum of lines 2 to 6) _____
- 8. Revenue subject to participation fee (line 1 less line 7) _____
- 9. Ontario percentage
(See definition in Rule) % _____ % _____
- 10. Specified Ontario revenue (line 8 multiplied by line 9) _____
- 11. Participation fee
(From Appendix B of the Rule, select the participation fee
beside the Ontario specified revenue calculated above) _____

Part IV - Management Certification

Firm Name: _____

We have examined the attached statements and certify that, to the best of our knowledge, they present fairly the revenues of the firm for the period ended _____ and are 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**

Registrant Firm Name: _____

Fiscal year end: _____

Note: Subsection 3.5(3) 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 subsection 3.5(2) of the Rule: _____
3. Refund due (Balance owing): _____
(Indicate the difference between lines 1 and 2)

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

Reporting Issuer Name (Subsidiary): _____

Reporting Issuer Name (Parent): _____

Fiscal Year End Date: _____

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

1. Subsection 2.9(1)

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.9(1) of the Rule:

- a) the parent of the subsidiary entity is a reporting issuer;
- b) the parent has paid the participation fee required;
- c) the parent company includes the market capitalization of the subsidiary entity in its calculation of its participation fee; and
- d) the net assets and gross revenues of the subsidiary entity represent more than 90 percent of the consolidated net assets and gross revenues of the parent for the previous financial year of the parent.

| | Net Assets for the previous financial year | Gross Revenues for the previous financial year | |
|-------------------------------|---|---|-----|
| Reporting Issuer (Subsidiary) | _____ | _____ | (A) |
| Reporting Issuer (Parent) | _____ | _____ | (B) |
| Percentage (A/B) | _____ % | _____ % | |

2. Subsection 2.9(2)

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.9(2) of the Rule:

- a) the parent of the subsidiary entity is a reporting issuer;
- b) the parent has paid the participation fee required;
- c) the parent company includes the market capitalization of the subsidiary entity in its calculation of its participation fee; and
- d) the subsidiary entity is 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*.

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

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Appendix – Use of Surplus to Reduce Participation Fees

**ONTARIO SECURITIES COMMISSION
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 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 and to adopt fees that accurately reflect the Commission’s costs of providing services.
- (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 investment fund managers are required to pay participation fees annually. Participation fees are designed to cover the Commission’s costs of providing services whose costs are not easily attributable to specific market participants. The participation fee required of each market participant is based on a measure of the market participant’s size, which is used to approximate its proportionate participation in the Ontario capital markets.
- (2) Over the three year period ending March 2006, the Commission projects that it will have an accumulated surplus of \$35.9 million. This surplus will be used to reduce the participation fees that would otherwise have been payable under the Rule. The appendix to this Companion Policy shows how the Commission has applied the surplus to each participation fee level.

2.3 Participation Fees Payable in Advance

- (1) Although participation fees are determined by using information from the payor’s previous fiscal year, both corporate finance and capital markets participation fees are applied to the costs of the Commission of the payor’s participation in Ontario’s capital markets in the upcoming year.
- (2) This principle is reflected in section 2.6 of the Rule, which deals with the payment of a participation fee for a new reporting issuer. The section requires a new reporting issuer to calculate its annual participation fee as it normally would, but only pay a proportionate amount based on the number of months left in its fiscal year.

- 2.4 Registered Individuals** – Only a “registrant firm” is required to pay a participation fee under the Rule. An individual who is registered as a salesperson, representative, partner, or officer of a firm is not required to pay a participation fee.

- 2.5 Activity Fees** – Activity fees are designed to represent the direct cost of Commission resources expended in undertaking the activities listed in Appendix C of the Rule (e.g., reviewing prospectuses, registration applications, and applications for discretionary relief). Activity fees are based on the average cost to the Commission of providing the service.

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 as a dealer or adviser under the Act. 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 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 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 speaking, 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 investment fund manager that loses that status later in the fiscal year for which the fee was paid.
- (2) An exception to this principle is provided in subsections 2.10(3) and 3.5(4) of the Rule. These provisions allow for a refund where a Class 2 reporting issuer or 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. In particular, 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 specified Ontario revenue calculations used in determining fees payable under the Rule.

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 Determination of Market Value

- (1) Section 2.11 of the Rule requires the calculation of the capitalization of a Class 1 reporting issuer to include the aggregate 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.
- (2) When determining the value of securities that are not listed or quoted, 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 2.11 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.

3.4 Owners' Equity – A Class 2 reporting issuer calculates its capitalization on the basis of certain items reflected in its audited balance sheet. One such item is "share capital or owners' equity". The Commission notes that "owners' equity" is designed to describe the equivalent of share capital for non-corporate issuers, such as partnerships or trusts.

3.5 "Green Shoes" and Over-Allotment Options – Paragraph 2.6(4)(b) of the Rule requires that the participation fee for Class 1, Class 3B and Class 3C reporting issuers be based on the issue price of the securities being distributed under

a prospectus. The Commission notes that this calculation should assume the issue of any securities under “green shoes” or over-allotment options.

PART 4 CAPITAL MARKET PARTICIPATION FEES

- 4.1 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 investment fund manager, such as prohibiting the manager from continuing to manage any investment fund or cease trading the investment funds managed by the manager.
- 4.2 Form of Payment of Fees** – Unregistered investment fund managers make filings and pay fees under Part 3 of the Rule by paper copy. The filings and payment should be sent to the Ontario Securities Commission, Investment Funds. Registrant firms pay through the National Registration Database.
- 4.3 “Capital Market Activities”**
- (1) A person or company must consider its capital market activities when calculating its participation fee. The term “capital market 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, trading in securities, providing securities-related advice and 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 market 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, providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.
- 4.4 Permitted Deductions**
- (1) For the purpose of calculating specified Ontario revenues that would be the basis for determining the participation fee payable by a registrant firm that is not a member of the IDA or MFDA or an unregistered investment fund manager, subsection 3.4(3) permits certain deductions to be made. These deductions are intended to prevent “double counting” of revenues that would otherwise occur in the absence of the deductions.
 - (2) It is noted that the permitted deduction of administration fees is limited solely to those that represent the recovery of costs from investment funds for operating expenses paid on their behalf by the registrant firm or unregistered investment fund manager. No registrant firm or unregistered investment fund manager may make a deduction for more than the amount of administration fees it has paid on behalf of an investment fund managed by the registrant firm or unregistered investment fund manager.
- 4.5 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.

PART 5 ACTIVITY FEES

- 5.1 Investment Funds** – Section 4.3 of the Rule provides for the payment of only one fee for an application made by or on behalf of investment funds in an investment fund family, if the application pertains to each investment fund. It is contemplated that discretionary relief required by investment funds in an investment fund family in circumstances that are the same for all of them can be sought by way of a single application.

APPENDIX – USE OF SURPLUS TO REDUCE PARTICIPATION FEES

Over the three year period ending March 2006, the Commission projects that it will have an accumulated surplus of \$35.9 million. This surplus will be used to reduce the participation fees that would otherwise have been payable under the Rule. The chart below shows how the Commission has applied the surplus to each participation fee level.

1. Corporate Finance Participation Fees

| Capitalization | Pre-Surplus Participation Fee | Reduction due to Application of Surplus | Participation Fee |
|--------------------------------------|-------------------------------|---|-------------------|
| under \$25 million | \$930 | \$330 | \$600 |
| \$25 million to under \$50 million | \$2,200 | \$900 | \$1,300 |
| \$50 million to under \$100 million | \$5,300 | \$2,100 | \$3,200 |
| \$100 million to under \$250 million | \$10,700 | \$4,000 | \$6,700 |
| \$250 million to under \$500 million | \$23,200 | \$8,500 | \$14,700 |
| \$500 million to under \$1 billion | \$32,300 | \$11,800 | \$20,500 |
| \$1 billion to under \$5 billion | \$46,600 | \$16,900 | \$29,700 |
| \$5 billion to under \$10 billion | \$60,100 | \$21,800 | \$38,300 |
| \$10 billion to under \$25 billion | \$70,000 | \$25,300 | \$44,700 |
| \$25 billion and over | \$79,000 | \$28,700 | \$50,300 |

2. Capital Markets Participation Fees

| Specified Ontario Revenues | Pre-Surplus Participation Fee | Reduction due to Application of Surplus | Participation Fee |
|--------------------------------------|-------------------------------|---|-------------------|
| under \$500,000 | \$1,000 | \$100 | \$900 |
| \$500,000 to under \$1 million | \$3,500 | \$400 | \$3,100 |
| \$1 million to under \$3 million | \$7,500 | \$600 | \$6,900 |
| \$3 million to under \$5 million | \$14,100 | \$900 | \$13,200 |
| \$5 million to under \$10 million | \$29,000 | \$1,800 | \$27,200 |
| \$10 million to under \$25 million | \$59,000 | \$3,500 | \$55,500 |
| \$25 million to under \$50 million | \$88,300 | \$5,200 | \$83,100 |
| \$50 million to under \$100 million | \$177,000 | \$9,400 | \$167,600 |
| \$100 million to under \$200 million | \$295,000 | \$15,500 | \$279,500 |
| \$200 million to under \$500 million | \$595,000 | \$30,000 | \$565,000 |
| \$500 million to under \$1 billion | \$770,000 | \$40,000 | \$730,000 |
| \$1 billion to under \$2 billion | \$970,000 | \$40,000 | \$930,000 |
| \$2 billion and over | \$1,600,000 | \$50,000 | \$1,550,000 |