

Chapter 6

Request for Comments

6.1 Request for Comments

6.1.1 Schedule 1 (Fees) to the Regulation to the Securities Act (Ontario)

NOTICE AND REQUEST FOR COMMENTS 11-901

Concept Proposal to Revise Schedule 1 (Fees) to the Regulation to the *Securities Act* (Ontario)

Overview

The Ontario Securities Commission (the "OSC") is publishing for comment a concept proposal (the "Concept Proposal") relating to a proposal to amend Schedule 1 (Fees) to the Regulation to the *Securities Act* (Ontario). Comments are invited on all aspects of the Concept Proposal including comments relating to whether the participation fee/activity fee model is appropriate.

The concept proposal may also be found on the OSC's website (osc.gov.on.ca), within the "Concept Proposals" section, which is located under "Notices" in the "Rules and Regulations" section.

Background

The OSC is proposing to substantially amend its fee schedule in order to accomplish three primary purposes - to reduce the overall fees charged to market players, to simplify, clarify and streamline the current fee schedule and to more accurately reflect the OSC's cost of providing services. This project was originally outlined in the Commission's Statement of Priorities published in June, 2000.

The OSC proposes to base the new fee schedule on a new model - a model based on the concept of "participation fees" and "activity fees".

Participation fees generally are intended to represent the benefit derived by market players from participating in Ontario's capital markets. All market players, including reporting issuers, registrants and mutual fund managers, will be required to pay participation fees annually. The participation fee will be based on a measure of the market player's size which is intended to serve as a proxy for the market player's use of the capital markets. Participation fees will be based on the cost of a broad range of regulatory services which cannot be practically or easily be attributed to individual activities or entities. For reporting issuers, the participation fee will replace most of the continuous disclosure filing fees and for registrants the participation fee will replace many of the smaller activity fees charged to registrants relating to changes in their registration or to their mutual fund prospectuses during a year and certain capital related fees.

Activity fees are intended to represent the direct cost of OSC staff ("Staff") resources expended in undertaking certain activities requested of Staff by market players (for example, reviewing prospectuses and applications for discretionary relief or processing registration documents). Market players will be charged activity fees only for activities undertaken by Staff at the request of the market player. Activity fees will be charged for a limited number of activities only and will be flat rate fees based on the average cost to the OSC of providing the service.

A list of the currently proposed participation fees and activity fees is included in Appendix A to the Concept Proposal. However, readers of the Concept Proposal should note that the fees set out in the Concept Proposal are based on Staff's current analysis and that each of the fees may change, perhaps substantially, before the OSC's fee schedule is finalized.

Economic Analysis

The proposed model has been reviewed and analysed by the OSC's chief economist. The chief economist has also reviewed the proposed activity fees and participation fees and has performed stress testing on the proposed model to minimize the impact of variable market conditions on the OSC revenue base.

Future Fee Adjustments

The Concept Proposal attempts to match the OSC's revenues to costs based on current predictions of future costs of providing services. Once the Concept Proposal is implemented, there may be specific years where either surplus funds are generated or deficits encountered. In an attempt to rectify these occurrences, the OSC is currently proposing the fee schedule be re-evaluated every three years. If a cumulative surplus or deficit occurs, the fee schedule will be adjusted accordingly at the end of the three year period. For example, if a net surplus of funds occurs over a period of three years it is anticipated that the fees charged to market players will be reduced correspondingly for the next three year period.

Industry Consultations

The OSC sought input from market players from three different focus groups. The focus groups consisted of reporting issuers, dealers (including the Investment Dealers Association), advisers and mutual fund managers (including The Investment Funds Institute of Canada). The participants in these focus groups provided valuable insight and comments which resulted in some modifications to the Concept Proposal. The OSC is grateful to those market players for their assistance.

Fee Estimator

To assist market players in determining the effect of the changes in fees contemplated by the Concept Proposal, the OSC has added a fee estimator (the "Fee Estimator") to its website (osc.gov.on.ca). The Fee Estimator can be found under the "Market Participants" section of the website. The Fee Estimator enables a market player (such as a reporting issuer or a registrant) to determine what its annual fees would have been for prior years if the fees set out in the Concept Proposal had been in effect in such years. To use the Fee Estimator, a reporting issuer market player will need to calculate its market capitalization and a registrant market player will need to know the amount of its annual gross revenues in Ontario. The market player should also have a list of all documents filed by or on behalf of the market player during the applicable year. Also, since the proposed activity fees for filing a prospectus are dependent on the amount of the gross proceeds resulting from the prospectus, the market player should ensure that that information is readily available as well.

Comments

Interested parties are invited to make written submissions with respect to the Concept Proposal. Submissions received by May 31, 2001 will be considered.

Submissions should be sent in duplicate to:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M4H 3S8
e-mail: jstevenson@osc.gov.on.ca

A diskette (or an e-mail attachment) containing submissions (in DOS or Windows format, preferably WordPerfect) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file and form part of the public record, unless confidentiality is requested. Although comment letters requesting confidentiality will not be placed on the public file, freedom of information legislation may require the OSC to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to comment letters.

Questions may be referred to either of:

Bill Gazzard
Director
Capital Markets
(416) 593-8909

Marrienne Bridge, CA
Senior Accountant
Advisory Services, Corporate Finance
(416) 595-8907

March 30, 2001

Ontario Securities Commission



11-901 Concept Proposal to Revise Schedule 1 (Fees) to the Regulation to the Securities Act (Ontario)

March 30, 2001

Table of Contents

Overview	
Guiding Principles for the New Fee Schedule	
Why the OSC is Changing its Fee Schedule	
The New Model - Corporate Finance	
I	Overview
II	Activity Fees
	A) Prospectuses and Other Offering Documents
	B) Applications for Discretionary Relief
	C) Take-Over Bids and Related Documents
	D) Continuous Disclosure
	E) Exempt Distributions
III	Participation Fee
The New Model - Capital Markets	
I	Overview
II	Participation Fee
III	Activity Fees
	A) Registration-Related Activities
	B) Applications For Discretionary Relief
	C) Continuous Disclosure for Investment Funds
	D) Exempt Distributions by Investment Funds
	E) Prospectus Offerings by Investment Funds
Appendix A	- Proposed Fees under the New Fee Model
Appendix B	- Examples of Fees for Reporting Issuers and Registrants under the Current Fee Schedule and Under the Proposed Fee Schedule
Appendix C	- Continuous Disclosure Documents for Which the Related Fee has been Replaced by the Participation Fee
Appendix D	- Calculation of Market Capitalization for the Participation Fee for Reporting Issuers
Appendix E	- Calculation of Gross Revenues for the Participation Fee for Registrants and Unregistered Fund Managers
Appendix F	- Economic Analysis Overview

Overview

The Ontario Securities Commission (the "OSC") is proposing to substantially amend its fee schedule in order to accomplish three primary purposes - to reduce the overall fees charged to market players (and thus to reduce revenues received by the OSC), to simplify, clarify and streamline the current fee schedule and to more accurately reflect the OSC's current estimates of future costs of providing services.

The OSC proposes to base the new fee schedule on a new model - a model based on the concept of "participation fees" and "activity fees". Participation fees are intended to represent the benefit derived by market players from participating in Ontario's capital markets. Activity fees are intended to represent the direct cost of OSC Staff ("Staff") resources expended in undertaking certain activities requested of Staff by market players (for example, reviewing prospectuses and applications for discretionary relief or processing registration documents). A summary of the currently proposed fees is in Appendix A. The proposed activity fees and participation fees set out in this concept proposal are based on the OSC's current estimates of future costs. These fees may change, perhaps substantially, prior to the implementation by the OSC of its revised fee schedule.

All market players, including reporting issuers and registrants, will be required to pay participation fees annually. The participation fee will be based on a measure of the market player's size so as to measure the market player's use of the capital markets. For reporting issuers, the participation fee will replace most continuous disclosure filing fees and for registrants the participation fee will replace many of the smaller activity fees charged to registrants relating to changes to their registration or to their mutual fund prospectuses during a year. Participation fees will be based on the cost of a broad range of regulatory services which cannot be practically or easily attributed to individual activities or entities.

Market players will be charged activity fees only for activities undertaken by Staff at the request of the market player. Activity fees will be charged for a limited number of activities only and will be flat rate fees based on the average cost to the OSC of providing the service.

The new fee schedule will more accurately reflect the OSC's future costs of providing services and will result in increased equity amongst the various market players paying fees to the OSC. One result of the new fee model is that some market players will pay higher fees than they pay currently and other market players will pay lower fees than they currently pay. Generally speaking, market players regulated by the Capital Markets Branch of the OSC as a group will pay lower fees than they did prior to the 20% reduction and reporting issuer market players regulated by the Corporate Finance Branch of the OSC as a group will pay slightly higher fees under the new fee model. Market players who are managers of mutual funds will enjoy the largest decrease in fees when compared to the amount of annual fees currently paid by mutual funds during their prospectus renewals. For reporting issuer market players, issuers that access the public markets on a regular basis by prospectus will generally pay lower fees under the new fee schedule. Issuers that rarely access the public markets by prospectus will generally pay higher fees under the new fee schedule.

The new fee schedule will also have provisions which permit a Director or the Executive Director of the OSC to reduce or refund the participation fee payable by a market player on application to the OSC. It is not proposed that the new fee schedule permit activity fees to be reduced or refunded. In addition, any Director or the Executive Director will have the ability to impose additional activity fees or increase any activity fee in applicable circumstances.

The OSC is taking the lead in discussions with the Canadian Securities Administrators (the "CSA") with respect to revisions to the fee schedule in each of the CSA jurisdictions. The OSC understands that members of the CSA concur conceptually with the general thrust of Ontario's new fee model. The OSC is hopeful that its new fee model will form the basis for revisions to the fee schedules of other members of the CSA. Members of the CSA have advised that they will be watching the progress of the implementation of Ontario's new fee schedule closely to determine whether they wish to revise their own fee schedules in a similar manner.

Guiding Principles for the New Fee Schedule

The participation fee/activity fee model for the OSC's new fee schedule is based on the following guiding principles:

- ! the new fee schedule will be simpler, clearer and more streamlined than the present fee schedule
- ! the ability of various market players to pay fees to the OSC will be taken into account, to the extent possible
- ! major activity fees will be based on the direct cost of Staff work on the activity
- ! participation fees will be based on the benefit derived by market players from participating in Ontario's capital markets and are intended to represent the cost of a broad range of regulatory services which cannot be practically or easily attributed to individual activities or entities
- ! the model will encourage market players to pay the required fees on a timely basis
- ! the model will reduce the vulnerability of OSC revenues to fluctuations in general market activity

Why the OSC is Changing its Fee Schedule

The current fee schedule has been in place since 1990. It includes approximately 60 provisions (many with numerous sub-provisions) relating to the calculation of various fees to various market players. It is a complex fee schedule which is both difficult to interpret and difficult to regulate.

As well, as part of the OSC becoming a self-funding corporation in the fall of 1997, the OSC committed to the Government of Ontario that it would reduce its fees so that fees collected by the OSC would more closely match expenditures incurred by the OSC. As a first step in this process, the OSC eliminated the secondary market fee. As the second step in this process, the OSC implemented a 10

percent across-the-board reduction in its current fees effective August 4, 1999. As the third step in this process, the OSC implemented a 10 percent across-the-board reduction in its current fees effective June 26, 2000. The new fee schedule proposed in this concept release is the next step in this process.

One of the primary purposes of amending the fee schedule is to reduce the revenues of the OSC so that the difference between revenues and expenditures of the OSC is not as significant. Since any fee model results in some fees that are dependent on general market conditions, revenues generated by the OSC will generally increase during market upswings and decrease during market downturns. As a result, the new fee schedule will also permit the OSC to adjust participation fees and activity fees, initially every three years, so that the discrepancy between revenues generated by the OSC and expenditures incurred by the OSC is maintained at an acceptable level. The expectation of the OSC is that, once it gains experience with the new fee schedule, participation fees and activity fees will be amended only on a periodic basis.

The proposed model has been reviewed and analysed by the OSC's chief economist. The chief economist has also reviewed the proposed activity fees and participation fees and has performed stress testing on the proposed model to minimize the impact of variable market conditions on the OSC revenue base.

The New Model - Corporate Finance

I Overview

As described above, the new fee schedule will include participation fees and activity fees. In general terms, participation fees for corporate finance activities will be represented by an annual fee charged to market players (generally reporting issuers other than mutual funds) based on a measure of the size of the market player. Only limited activity fees will be charged to market players for corporate finance activities.

Activity fees and participation fees for registrants, mutual funds and mutual fund management companies (regardless of whether or not such entities are also reporting issuers) are dealt with below under "The New Model - Capital Markets".

Appendix B compares fees that would be payable under the new fee schedule against fees that were actually paid by selected reporting issuers in calendar 1998 and 1999.

II Activity Fees

A) Prospectuses and Other Offering Documents

The new fee schedule will include a flat fee for preliminary prospectuses. The flat fee for preliminary prospectuses will substantially simplify the fees charged to market players filing a prospectus because it will no longer be necessary for a market player to:

- ! calculate the fee based on the type of prospectus being filed (i.e. whether it is a "regular" prospectus, a "shelf" prospectus, a

multijurisdictional prospectus or a prospectus for a non-fixed price offering)

- ! apply for a refund of fees paid previously and for the OSC to assign Staff necessary to handle fee refunds
- ! if issuing securities under the shelf prospectus system, file reports of sales of securities on a monthly basis for the period that its securities are in continuous distribution and for the OSC to assign Staff to monitor the payment of these fees
- ! pay a fee on filing a prospectus amendment, whether it be an amendment to a preliminary prospectus or to the (final) prospectus.

The flat fee will be payable by each market player offering securities pursuant to the prospectus. The flat fee will not be refunded if the market player subsequently withdraws the preliminary prospectus. For the purposes of this flat fee, rights offering circulars accompanied by the applicable notice pursuant to clause 72(1)(h) of the Act are considered to be preliminary prospectuses.

There will be a tiered system of flat fees for long form prospectuses ranging from \$1,000 to \$7,500. The fees will be tiered based on the gross proceeds qualified by the prospectus (including over-allotments and "green" shoes) proposed to be raised in Canada. The flat fee for offerings by long form prospectus are as follows:

Gross Proceeds	Activity Fee
< \$5 million	\$1,000
\$5 million to \$20 million	\$5,500
> \$20 million	\$7,500

Gross proceeds for this purpose includes only the gross proceeds to be raised in Canada provided that the prospectus clearly discloses the percentage or amount of the offering to be raised outside of Canada. If a preliminary long form prospectus does not disclose the gross proceeds of the offering qualified or to be qualified by the prospectus, the market player will be required to pay the minimum flat fee of \$1,000 with the preliminary prospectus and pay the remaining applicable fee based on the gross proceeds of the offering qualified by the prospectus as disclosed in the (final) prospectus with the filing of the (final) prospectus. A non-offering prospectus will be subject to a flat fee of \$2,000.

It is also proposed that an additional fee of \$2,000 be levied for a prospectus that is complex (for example, a demutualization) or for a prospectus that relates to novel securities (for example, an offering of asset-backed securities). The issuer will be advised in writing by the Director of Corporate Finance during the comment period that the additional filing fee is payable on the filing of the (final) prospectus. It is further proposed that an additional activity fee of \$1,000 be levied for a prospectus filed by a resource issuer which is accompanied by engineering report(s).

Currently fees must be paid by an issuer filing an escrow agreement or filing an amendment to a preliminary or (final) prospectus. These fees would not be levied under the new fee schedule.

It is proposed that a single flat fee of \$2,000 be charged for the filing of a short form preliminary prospectus regardless of the type of prospectus (example, shelf prospectus or MJDS prospectus) being filed or the size of the offering being made under that prospectus. The flat fee is payable by each market player offering securities pursuant to the short form prospectus. As for long form prospectus filings, short form prospectus issuers will not be charged a fee for filing an amendment to a preliminary or (final) short form prospectus.

It is proposed that the flat fees for filing a prospectus be the same whether or not Ontario is designated as the principal regulator by the issuer. This is appropriate since Staff review all prospectuses filed with the OSC. All prospectuses filed with the OSC are subject to "screening" by both a senior accountant and a senior lawyer in corporate finance. The screening process determines whether further corporate finance resources should be expended in reviewing the prospectus.

B) Applications for Discretionary Relief

It is proposed that the filing of most applications under various provisions of the Act, the Regulation or the Rules be accompanied by an activity fee. The application fee will be payable with the filing of the related application and will not be refunded if the application is subsequently withdrawn.

A number of applications (as listed in Appendix A - Table 1) will not be subject to an activity fee. The fee for these applications will be included as part of the participation fee.

There will be two flat fees for those applications that are subject to an activity fee. The highest flat fee (proposed to be \$5,500) will be charged for an application filed under:

- ! section 74 (prospectus and registration exemptions) or section 104 (take-over bid exemptions);
- ! section 144 that relates to a revocation of a cease trade order that was issued more than two years prior to the date of the application; and
- ! more than one section of the Act, Regulation or Rules.

The lower flat fee (proposed to be \$1,500) will be charged for all other applications filed, including those applications specifically listed in Appendix A - Table I.

For applications that attract a fee of either \$5,500 or \$1,500, it is also proposed that where an applicant requires a signed order of the Commission or written waiver of the Director in less than 20 days from the date of receipt of the application by the OSC, that the application also attract an additional activity fee of double the applicable application fee related to the requirement that the OSC "rush" the application or otherwise prioritize the application ahead of other applications which may have been filed prior to the application

in question. The processing of applications by Staff on a "rush" basis will be subject to the availability of Staff resources. Applications filed on a non-rush basis or treated by the OSC as having been filed on a non-rush basis will generally be processed by Staff in the order in which they are received by the OSC.

It is further proposed that where an applicant does not pay a participation fee (because, for example, the issuer is a foreign issuer that has never offered securities in the Province of Ontario), the application also attract an additional activity fee of \$2,000.

C) Take-Over Bids and Related Documents

Normal course issuer bids will not be subject to an activity fee (conceptually the fee for the work associated with a normal course issuer bid will be included as part of the participation fee for that issuer). The fee for filing an exempt take-over bid or an issuer bid which is not a normal course issuer bid will be a flat fee of \$1,500. A flat fee of \$5,500 will be charged to the market player, in this case the offeror, for filing a take-over bid circular that is not an exempt take-over bid or an issuer bid regardless of whether the bid for the target company is ultimately successful and regardless of whether the consideration to be paid by the offeror(s) consists of cash, securities or a combination of cash and securities. Only one flat fee will be charged for each take-over bid circular or issuer bid circular filed, regardless of the number of offerors. An offeror(s) that has not paid a participation fee in respect of the year in which the take-over bid circular (regardless of whether or not the take-over bid is exempt) or issuer bid circular is filed will be required to pay an additional activity fee of \$2,000 on filing the circular.

There will be no fees charged for notices of change and variation, directors' circulars, individual director's circulars, formal valuations and prior valuations, documents filed with the OSC that relate to so-called "second stage" transactions and normal course issuer bid circulars.

D) Continuous Disclosure

It is proposed that all fees payable by market players for continuous disclosure documents (other than the proposed activity fee for filing an initial annual information form so that an issuer may participate in the short form distribution system) be replaced by a participation fee.

A list of continuous disclosure documents for which there is no activity fee is set out in Appendix C. Each document listed in Appendix C not filed within the applicable regulatory time periods will, however, be subject to an activity fee of \$100 per day for each day that the document is late on the basis that Staff will have to spend additional administrative time in following up on these documents.

E) Exempt Distributions

Fees will not be charged for filings made by market players (other than those market players who do not pay participation fees) in connection with exempt distributions. Fees that are levied under the current fee schedule for these types of distributions (for example - private placements reported on Form 45-501F1 and annual reports relating to

distributions pursuant to subclause 72(1)(f)(iii)) of the Act will be included as part of the participation fee payable by market players.

An issuer filing a report of an exempt distribution that does not pay a participation fee will be required to pay an activity fee of \$2,000 for each report filed which relates to an exempt distribution.

II Participation Fee

The participation fee will be a flat fee based, in general terms, on the market capitalization of the market player. In selecting the “driver” for the participation fee for corporate finance market players, Staff also considered basing the participation fee on assets or revenues of the market player but concluded that market capitalization was the most relevant indicator of the market player’s use of the capital markets.

The participation fees will be “tiered”. Tiering the participation fee will result in larger market players paying higher participation fees than smaller market players. In addition, tiering the participation fee will avoid excess volatility in the annual revenue of the OSC. The participation fee will be paid through SEDAR on an annual basis within 140 days of the fiscal year end of the market player. As a result, the participation fee will be paid for the current fiscal period of the issuer based on the issuer’s market capitalization as at the end of its previous fiscal period (Note that the issuer’s market capitalization for this purpose will be generally be based on its issued capital as at the end of its last fiscal period multiplied by the average of the closing prices of its issued securities as of the last trading day of each of the last twelve months of its fiscal period (see Appendix D for further details)). It is proposed that the payment of the participation fee will be accompanied by a new form which will outline the calculation of the fee and which will be certified by a senior officer of the market player. It is also proposed that the new form will accompany the filing of the annual financial statements of the market player. It is anticipated that SEDAR will be modified so that a market player will not be able to file its annual financial statements with the securities regulators unless the form and the applicable participation fee accompany the filing.

The annual participation fee is proposed to be calculated based on the market player’s “market capitalization” for all classes of equity and debt securities that are listed and posted for trading on a Canadian stock exchange. The calculation of market capitalization for the three classes of market player (issuers incorporated in Canada with a class of securities listed and posted for trading on a Canadian stock exchange, foreign issuers and other issuers) are as set out in Appendix D. The annual participation fee will be tiered based on a market player’s market capitalization. If the participation fee is not paid by a market player within the prescribed time period, an additional flat fee of 1 percent of the applicable participation fee will be payable with the participation fee for each day the participation fee is not paid (subject to a maximum late fee of 25 percent of the applicable participation fee). The annual participation fees for reporting issuers are as follows:

<u>Market Capitalization</u>	<u>Annual Participation Fee</u>
under \$25 million	\$750
\$25 million to <\$50 million	\$1,500
\$50 million to <\$100 million	\$2,500
\$100 million to <\$250 million	\$7,500
\$250 million to <\$500 million	\$15,000
\$500 million to <\$1 billion	\$30,000
\$1 billion to <\$5 billion	\$50,000
\$5 billion to <\$10 billion	\$65,000
\$10 billion to <\$25 billion	\$70,000
over \$25 billion	\$75,000

Investment fund issuers that are not mutual funds to which National Instrument 81-102 applies or are not scholarship plans will pay a participation fee and activity fees in accordance with the corporate finance model.

An issuer that files a prospectus in Ontario in order to become a reporting issuer in Ontario shall file with its (final) prospectus a prorated participation fee based on the number of months remaining in the issuer’s fiscal period. As an example, an issuer with a December year end filing a (final) prospectus relating to an initial public offering in September would be required to pay with the (final) prospectus a participation fee based on 3/12 of the annual participation fee as set out above.

The calculation of the market capitalization of the issuer shall be completed on a pro forma basis assuming completion of the maximum offering (including over allotment options and “green” shoes) as described in the (final) prospectus. Similarly, an issuer that receives an order deeming it to be a reporting issuer in Ontario or an issuer that becomes listed on The Toronto Stock Exchange and attains reporting issuer status in Ontario shall, prior to the issuance of the applicable order or the listing of its securities on The Toronto Stock Exchange (as applicable), pay a prorated participation fee based on the number of months remaining in the issuer’s fiscal period.

Issuers currently subject to a cease trade order in Ontario will be required to pay a prorated participation fee prior to the cease trade order being lifted. The participation fee will be based on the most recent audited financial statements of the issuer using the book value capitalization method of determining market capitalization for other issuers as set out below. As an example, an issuer with a December year end that makes the necessary filings or takes the necessary steps to get its cease trade order lifted in March would be required to pay a participation fee based on 8/12 of the applicable annual participation fee as set out below.

The participation fee will cease to be payable by a market player for the market player’s fiscal periods

immediately following the date the market player ceases to be a reporting issuer in Ontario. It is not proposed that a refund of the participation fee be made by the OSC for a market player who ceases to be a reporting issuer during the market player's fiscal period. This is consistent with the "no refund" concept of the fee model.

The New Model - Capital Markets

I Overview

The Capital Markets branch administers regulation of registrants (dealers and advisers and individuals employed by these firms), investment products (such as mutual funds and pooled funds), markets (including exchanges, alternative trading systems and self-regulatory organizations) and clearing and settlement systems. The common thread throughout the activities of the Branch is that they involve activities which registrants either conduct (selling securities, advising others about investing in securities or packaging investment products for sale to the public) or participate in or benefit from (for example, exchanges, self-regulatory organizations and clearing and settlement systems).

As in the case of the Corporate Finance model, the fee model for Capital Markets will include both participation fees and activity fees. In general terms, participation fees will be represented by an annual fee charged to firms that are registered as dealers or as advisers based on a measure of the participation of the registrant in the Ontario capital markets. Fund managers that are not registered with the Commission in any capacity will also be charged an annual participation fee. Activity fees will be charged to registrants (and to their investment funds, where applicable) for specified activities undertaken by the Capital Markets branch at the request of the registrant. This fee model will also be implemented for fees charged under the *Commodity Futures Act* (Ontario)(the "CFA").

Each firm that is registered with the OSC or that is an unregistered mutual fund manager will pay a participation fee which is designed to be a largely all-inclusive fee to cover the cost of administration of regulation that relates to their regulated activities, business and operations, together with a proportionate share of the unallocated overhead costs of the OSC.

Activity fees will generally be charged on a flat fee basis reflecting the average cost to the OSC of undertaking the activity. These fees will be charged in respect of services carried out by Staff such as:

- ! processing new applications for registration of a firm and its trading or advising officers, partners, salespersons and representatives
- ! processing applications to appoint new trading or advising officers or partners, salespersons or representatives or to change the status of existing officers or partners from non-trading and/or non-advising to trading and/or advising or to be salespersons or representatives
- ! processing applications for discretionary relief and approvals (whether from the legislation,

Regulation or Rules applicable to registrants or that are applicable to investment products (such as mutual funds) and their management and distribution)

- ! reviewing prospectuses for new mutual funds and other investment products and reviewing the annual renewal prospectuses for these investment products

Many of the smaller fees currently charged for specified activities will no longer attract a charge; for example, fees for amending registration particulars, such as a change in business address or address for service, a change in shareholders, adding or deleting branch offices or for amending mutual fund prospectuses.

Appendix B demonstrates fees that would be payable under the new fee schedule against fees that were actually paid by 7 registrants in calendar 1999.

It should be noted that the fees set out in the Concept Proposal are based on Staff's current analysis and that each of the fees may change, perhaps substantially, before the OSC's fee schedule is finalized.

II Participation Fee

Each registrant firm (including registrants under the *Securities Act* (Ontario)(the "OSA") and the CFA) and each unregistered mutual fund manager will pay an annual participation fee based on the portion of that entity's gross revenues for its most recently audited financial year, as adjusted for certain defined deductions, that is attributable to the entity's business in Ontario.

The fee model proposes to define gross revenues to ensure that the participation fee is consistently applied and generally fair to all registrants. The wide range of business structures used in the industry, particularly in the mutual fund management industry, necessitates a clear definition to ensure equity among similar categories of registrants. The fee model will also provide guidance to registrants on how they should determine their gross revenues that is attributable to their business conducted in Ontario.

In selecting the "driver" for the participation fee for registrants, Staff also considered basing the participation fee on assets under administration but concluded that gross revenue was the most relevant indicator of the registrant's use of the capital markets and would be the easiest measure for registrants to calculate and report on.

The OSC proposes that a registrant firm will calculate the components of its revenue in accordance with generally accepted accounting principles and as recorded on its most recently audited Comparative Statement of Income. Generally, this amount will be:

- ! for a member of the Investment Dealers Association of Canada – that amount indicated by the member at Line 18 of Statement E of the Joint Regulatory Financial Questionnaire and Report of the Investment Dealers Association of Canada

- ! for a member of the Mutual Fund Dealers Association of Canada – that amount indicated by the member at Line 12 of Statement D of the Financial Questionnaire and Report of the Mutual Fund Dealers Association of Canada
- ! for a registered adviser, fund manager or other category of dealer – that amount which is indicated as “gross revenue” on that adviser’s, fund manager’s or dealer’s most recent audited annual financial statements.

A registered adviser, a fund manager or other category of dealer will be permitted to deduct from “gross revenues” the following revenue items received during its most recently audited financial year, as applicable to that entity’s business:

- ! redemption fees earned on the redemption of mutual fund securities sold on a deferred sales charge basis
- ! administration fees relating to the recovery of costs from mutual funds managed by the entity for operating expenses paid on their behalf by the entity
- ! sub-advisory fees, if those fees are paid to another registrant in Ontario
- ! trailer fees, if those fees are paid to another registrant in Ontario.

The above-noted permissible deductions from gross revenue are proposed so as to minimize the “double counting” of gross revenues of Ontario registrants and Ontario based fund managers that would otherwise occur if such deductions were not permitted.

Participation fees will be based on the registrant’s portion of gross revenue attributable to Ontario. The percentage attributable to Ontario for the reported year end is proposed to be the provincial allocation rate used for the registrant’s Ontario tax return for the same period.

The amount charged as the participation fee will be tiered according to levels of gross revenue. The table below indicates the proposed ranges of gross revenues, along with the proposed participation fee for that range.

Gross Revenues Attributable to Ontario	Annual Participation Fee
under \$500,000	\$750
\$500,000 to under \$1 million	\$2,000
\$1 million to under \$5 million	\$7,500
\$5 million to under \$10 million	\$15,000
\$10 million to under \$25 million	\$25,000
\$25 million to under \$50 million	\$50,000
\$50 million to under \$100 million	\$100,000
\$100 million to under \$200 million	\$200,000
\$200 million to under \$500 million	\$350,000
\$500 million to under \$ 1 billion	\$500,000
over \$1 billion	\$600,000

In order to properly define the ranges of gross revenues and the associated participation fee for each range, the OSC surveyed all registrants during the spring and summer of 2000 to determine gross revenues of registrants (using the proposed fee model). Fifty-two percent of registrants surveyed sent back data to the OSC for use in its modelling.

A registrant that is registered in more than one capacity (for example, a firm registered as a dealer and also as an adviser or also under the CFA) will pay one participation fee based on its gross revenues from all sources, as permitted to be adjusted.

The participation fee will be payable annually by registrants on a date to be established. It is proposed that registrants will pay the participation fee accompanied by a new form which will outline the various components of gross revenues and the calculation of the fee. The form will be required to be certified by senior officers of the registrant. The proposed form is attached to this fee model as Appendix E.

If the participation fee is not paid by a registrant on the date established, the OSC may suspend the registration of the registrant and/or fine the registrant. A fine would consist of an additional flat fee of 1 percent of the applicable participation fee for each day the participation fee is not paid (subject to a maximum late fee of 25 percent of the applicable participation fee).

In recognition that not all managers of mutual funds are registrants, the same annual participation fees will be levied against these non registered managers at the time of the annual prospectus renewal for the mutual funds they manage. Managers of mutual funds are those defined as such in National Instrument 81-102 Mutual Funds. Participation fees of these unregistered fund managers are expected to be collected via the SEDAR system of filing.

A registrant who commences business and becomes registered in some capacity for the first time during any year will pay applicable activity fees, as well as \$750, being the

Request for Comments

minimum participation fee, at the time it submits its application for initial licencing of its business.

The participation fee will cover the following services provided by the OSC that are considered to be inherent in the registrant's grant of a licence to carry out its business:

- ! annual renewals of firm, branch and trading/advising officer, partner, salesperson and representative registration status
- ! amendments to registration details, including amendments to details regarding registered trading/advising officers, partners, representatives and salespersons and termination of trading/advising officers, partners, representatives and salespersons (but not the appointment of new trading/advising officers, partners, representatives and salespersons and not certain changes for individuals, such as a salesperson becoming an officer, for which an activity fee will be levied)
- ! filings of annual financial statements by registrants and investment funds that are reporting issuers or are otherwise required to file financial statements with the OSC (see the Corporate Finance section of this concept proposal)
- ! amendments to investment fund prospectuses
- ! voluntary surrenders of registration.

III Activity Fees

A) Registration-Related Activities

Registration-related activity fees to be levied under the fee model are designed to cover the OSC's direct costs of carrying out that activity and will be based on the OSC's best estimate of the costs needed to carry out that activity. As noted above, these activities and the OSC's costs of performing those activities are based on Staff's current analysis and each of these fees may change, perhaps substantially, before the OSC's fee schedule is finalized.

The activities that will attract fees will be those where substantial Staff resources are required in order to process or carry out the regulatory response to that activity or where the volume of transactions justifies the imposition of a fee to recover the OSC's costs. A number of the registration related activities carried out by Staff do not require a lot of Staff time and therefore the direct costs incurred by the OSC in respect of that activity are low. Rather than charge a large number of small fees, the fee model proposes that the cost of these activities be recouped by the participation fee to be paid by all registrants.

Registration-related activity fees will be payable for, and will be in the following amounts:

<u>Activity</u>	<u>Activity Fee</u>
New registration of a firm (in any capacity) (where a firm registers as both an adviser and dealer, it will be required to pay two activity fees)	\$800
Certain changes in registration category: dealers changing to or adding an adviser category or advisers changing to or adding a dealer category	\$800
Registration of a new officer or partner (trading and/or advising), salesperson or representative.	\$400 per person
Change in status from a non-trading and/or non-advising capacity to a trading and/or advising capacity	\$400 per person
Registration of a new registrant firm resulting from the amalgamation of registrant firms	\$6,000

Additional fees of \$100 per day will be levied against a registrant for each day that it is late in filing required notices, amendments to registrations and financial statements.

B) Applications for Discretionary Relief

The filing of most applications under various provisions of the Act, the Regulation and the Rules by registrants and investment funds (or registrants on behalf of investment funds) will be accompanied by an activity fee. The application fee will be payable with the filing of the related application and will not be refunded if the application is subsequently withdrawn.

Applications for discretionary exemptive relief under section 74 of the Act dealt with by Staff of the Capital Markets Branch (generally those applications dealing with registration issues) will attract the same fee as the comparable applications dealt with by Corporate Finance Staff; namely \$5,500.

The fee for other applications for discretionary exemptive relief from the registration provisions of, or for Director or Commission level registration related approvals provided for by, the Act, the Regulation or the Rules will be a flat fee, regardless of the complexity of the application being filed. Applications to the Director or the Commission for an amendment of terms and conditions imposed on a registrant pursuant to section 26 of the Act, notices to the Director given pursuant to section 104 of the Regulation and applications for recognition as an exempt purchaser will attract the same activity fee as applications for discretionary exemptive relief. It is proposed that the flat fee be \$1,500 and will cover all relief

and approvals required by the applicant in respect of a single transaction or matter.

The fee for applications for discretionary exemptive relief from the Director or the Commission for specified investment fund activity under the Act, the Regulations or the Rules will be a single flat fee, regardless of the complexity of the application being filed. It is proposed that the flat fee be \$1,500 and will cover all relief required by the registrant or investment fund (or registrant on behalf of an investment fund) in respect of a single transaction or matter. For example, if a mutual fund requires relief from the provisions of the Act and also from National Instrument 81-102 to make a certain type of specified investment, that mutual fund will be levied one application fee.

In the case of investment funds, where investment funds that are all members of the same fund family require *identical* relief to carry out a transaction or to make a certain type of investment, a single flat fee will be charged to that group of investment funds (or to the registrant or fund manager making the application on their behalf). Where one application letter is filed requesting different types of relief for different investment funds, each investment fund (or group of investment funds) requiring the same relief will be charged an application fee, notwithstanding that one application letter has been filed. For example, if a fund manager submits a letter that constitutes an application by one group of its funds to invest more than 10 percent of each fund's assets in one specified issuer, one application fee would be payable in respect of that request. If the same letter also details a request for another fund or group of funds to invest more than 10 percent of the fund's assets in another specified issuer, another application fee would be payable in respect of that request.

The following registration-related and investment fund related applications and notices will require payment of an application activity fee since they require action on the part of Staff. However in recognition of the lesser Staff effort required with these applications and notices, a lower flat fee of \$500 will be charged:

- ! requests, pursuant to section 139 of the Act for a certified statement from the Commission or the Director
- ! networking notices filed under section 229 of the Regulation
- ! lapse date extension orders issued pursuant to section 62(5) of the Act.

As under the Corporate Finance model, it is also proposed that where an applicant (including a registrant on behalf of, or with an investment fund) requires a signed order of the Commission or a decision or written waiver of the Director in less than 20 days from the date of receipt of the application by the OSC, the application also attract an

additional activity fee of double the applicable application fee related to the requirement that the OSC "rush" the application or otherwise prioritize the application ahead of other applications which may have been filed prior to the application in question. The processing of applications by Staff on a "rush" basis will be subject to the availability of Staff resources. Applications filed on a non-rush basis or treated by the OSC as having been filed on a non-rush basis will generally be processed by Staff in the order in which they are received by the OSC.

Where an applicant does not pay a participation fee (because, for example, the applicant is not a registrant, such as a unregistered non-resident adviser) and wishes to receive an exemptive relief order or waiver, the application will also attract an additional activity fee of \$2,000.

C) *Continuous Disclosure for Investment Funds*

The discussion in the Corporate Finance section of this concept proposal relating to continuous disclosure is applicable to investment funds (except as it relates to payment of participation fees and prospectus filing activity fees), to the extent that they are reporting issuers, or otherwise required to file continuous disclosure material with the OSC. That is, no fees will be levied for the filing of the required financial statements and other continuous disclosure material by investment funds on the basis that their managers will have paid a participation fee to the OSC.

D) *Exempt Distributions by Investment Funds*

The discussion in the Corporate Finance section of this concept proposal relating to exempt distributions is applicable to investment funds where they carry out trades on an exempt basis. That is, no fees will be levied in respect of distributions of investment funds made on an exempt basis.

E) *Prospectus Offerings by Investment Funds*

It is proposed that a flat activity fee will be charged to either the investment fund, or its manager, when it files either a preliminary or pro forma prospectus. Where a group of investment funds uses a single preliminary or pro forma prospectus disclosure document, each investment fund covered under the single document will be levied this fee, in recognition that although a single document is used, each fund is filing a preliminary or pro forma prospectus and Staff effort is expended in considering each individual fund on its own merits. This fee will not be refunded if the fund subsequently withdraws the preliminary prospectus or does not renew the fund's prospectus through filing of a final prospectus.

It is proposed that the flat fee payable by each investment fund will be \$600. No additional fees will be payable upon the filing of the final prospectus following the clearance of the preliminary or the pro forma prospectus.

No amendment fees will be payable for amendments to prospectus documents.

It is proposed that an additional fee of \$2,000 be levied for an investment fund prospectus that is complex or for a prospectus that relates to a novel product or securities. The investment fund will be advised in writing by the Director of Capital Markets during the comment period that the additional filing fee is payable on the filing of the (final) prospectus.

It is proposed that the flat fees for preliminary and pro forma prospectuses filed by investment funds be the same whether or not Ontario is designated as the principal regulator by the investment fund under the prospectus. The rationale for this approach is discussed in the Corporate Finance section under "The New Model - Corporate Finance - Prospectuses and Other Offering Documents".

Appendix A

Proposed Fees under the New Fee Model

Corporate Finance Fees

Table I - Activity Fees

<u>Document Type</u>	<u>Description of New Fee</u>
Long form prospectus	Flat fee ranging from \$1,000 to \$7,500 based on gross proceeds of offering qualified by the prospectus. Additional flat fees for resource issuers (\$1,000) and for complex or novel offerings (\$2,000)
Short form prospectus	Flat fee of \$2,000 regardless of size of offering. Additional flat fee of \$2,000 for complex or novel offerings
Non-offering prospectus	Flat fee of \$2,000
No charge applications	No fee for the following documents: <ul style="list-style-type: none"> - applications under subsection 72(8) of the Act (for a reporting issuer certificate) - applications under section 83 of the Act (for orders deeming an issuer to have ceased to be a reporting issuer) - waivers of the requirements of OSC Rule 51-501 (relating to annual information forms and management's discussion and analysis) - requests for the written permission of the Director under subsection 38(3) of the Act (permitting certain listing representations in disclosure documents) - applications where the approval of the Director is evidenced by the issuance of a receipt for the (final) prospectus - all applications filed under section 144 of the Act (other than those relate to revocations of cease trade orders that were issued more than two years prior to the date of the application and those that relate to applications filed by a person or company affected by a decision of the Commission)
\$5,500 applications	Flat fee of \$5,500 for: <ul style="list-style-type: none"> - applications filed under section 74 or 104 of the Act - applications filed under section 144 that relate to revocations of cease trade orders that were issued more than two years prior to the date of the application - applications filed under more than one section of the Act, Regulation or Rules

Document Type	Description of New Fee
\$1,500 applications	Flat fee of \$1,500 for applications under: <ul style="list-style-type: none"> - section 121 of the Act (exemptions based on compliance with the laws of another jurisdiction) - Rule 61-501 (exemptions relating to take-over bids) - section 233 of the Regulation (exemptions from the conflict of interest provisions) - subclause 80(b)(iii) of the Act (relating to exemptions from the continuous disclosure requirements relating to financial statements) - section 144 of the Act by a person or company affected by a decision of the Commission - the <i>Business Corporations Act</i> (Ontario) - section 83.1 of the Act (deeming an issuer to be a reporting issuer in Ontario) - under other miscellaneous sections
Rush application fee	Additional flat fee of double the applicable application fee for rush applications
Additional application fee	Additional flat fee of \$2,000 for filing an application if the applicant has not paid a participation fee
Take-over bid circulars	Flat fee of \$5,500 for each take-over bid circular, regardless of the number of offerors. Flat fee of \$1,500 for each circular relating to an exempt take-over bid or issuer bid that is not a normal course issuer bid (no fee for circulars relating to normal course issuer bids). Additional flat fee of \$2,000 for each circular filed if the filer did not pay a participation fee in that year
Continuous disclosure filings	Most continuous disclosure documents (see Appendix C for a list) are not subject to an activity fee. Flat fee of \$100 per day for each document that is not filed within prescribed time limits by an issuer. Flat fee of \$2,000 for an issuer filing an initial annual information form to permit it to participate in the prompt offering prospectus system
Exempt distributions	Flat fee of \$2,000 for a filing made by an issuer that did not pay a participation fee in that year

Table II - Participation Fee

For a description of how to calculate market capitalization, see Appendix D.

Market Capitalization	Annual Participation Fee
under \$25 million	\$750
\$25 million to <\$50 million	\$1,500
\$50 million to <\$100 million	\$2,500
\$100 million to <\$250 million	\$7,500
\$250 million to <\$500 million	\$15,000
\$500 million to <\$1 billion	\$30,000
\$1 billion to <\$5 billion	\$50,000
\$5 billion to <\$10 billion	\$65,000
\$10 billion to <\$25 billion	\$70,000
over \$25 billion	\$75,000

If the participation fee is not paid by a market player within the prescribed time period, an additional flat fee of 1 percent of the applicable participation fee will be payable with the participation fee for each day the participation fee is not paid (subject to a maximum late fee of 25 percent of the applicable participation fee).

Capital Markets Fees

Table I - Activity Fees

Activity	Activity Fee
New registration of a firm (in any capacity) (where a firm registers as both an adviser and dealer, it will be required to pay two activity fees)	\$800
Certain changes in registration category: dealers changing to or adding an adviser category, or advisers changing to or adding a dealer category	\$800
Registration of a new officer or partner (trading and/or advising), salesperson or representative	\$400 per person
Change in status from a non-trading and/or non-advising capacity to a trading and/or advising capacity	\$400 per person
Registration of a new registrant firm resulting from the amalgamation of registrant firms	\$6,000

<u>Activity</u>	<u>Activity Fee</u>
Applications for discretionary relief under Act, Regulation and Rules (other than section 74 applications – see below)	\$1,500 per applicant (or group of related applicants in the case of investment funds)
Applications for discretionary relief under section 74 of the Act	\$5,500
Notices to Director under section 104 of the Regulation	\$1,500
Applications for recognition as an exempt purchaser	\$1,500
Applications for amending terms and conditions of registration	\$1,500
Section 139 requests for certified statements from the Commission or the Director	\$500
Networking notices – section 229 of the Regulation	\$500
Section 62(5) applications (per prospectus lapse date being extended)	\$500
Preliminary or pro forma prospectus for an investment fund	\$600 per fund. Additional flat fees for complex or novel offerings (\$2,000)
Application by a market participant who does not pay a participation fee	Additional fee of \$2000
Application for a "rush" order or decision	Additional flat fee of double the applicable application fee for the rush application

Additional fees of \$100 per day will be levied against a registrant for each day that it is late in filing required notices, amendments to registrations and financial statements.

Table II - Participation Fee

For a detailed discussion on the calculation of "gross revenues" and the participation fee please see Appendix E.

<u>Gross Revenues Attributable to Ontario</u>	<u>Annual Participation Fee</u>
under \$500,000	\$750
\$500,000 to under \$1 million	\$2,000
\$1 million to under \$5 million	\$7,500
\$5 million to under \$10 million	\$15,000
\$10 million to under \$25 million	\$25,000
\$25 million to under \$50 million	\$50,000
\$50 million to under \$100 million	\$100,000
\$100 million to under \$200 million	\$200,000
\$200 million to under \$500 million	\$350,000
\$500 million to under \$ 1 billion	\$500,000
over \$1 billion	\$600,000

If the participation fee is not paid by a registrant on the date established, the OSC may suspend the registration of the registrant and/or fine the registrant. A fine would consist of an additional flat fee of 1 percent of the applicable participation fee for each day the participation fee is not paid (subject to a maximum late fee of 25 percent of the applicable participation fee).

Table III - Activities for Which No Activity Fees will be Charged

The following activities will not be charged an activity fee but will instead be included as part of the participation fee:

- ! Annual renewals of firm, branch, trading/advising officers and salespersons
- ! Amendments to registration details, such as:
 - ! change in business address or address for service
 - ! change in shareholders
 - ! change in auditor
 - ! change in fiscal year end
 - ! name changes
 - ! addition or deletion of branch offices
 - ! amendments to details regarding registered trading/advising officers and partners, representatives and salespersons and terminations of trading/advising officers and partners, representatives and salespersons (but not the appointment of new trading/advising officers and partners, representatives and salespersons and

not certain changes for individuals, such as a salesperson becoming an officer, for which an activity fee will be levied)

- ! Notices under section 217 of the Regulation
- ! Amendments to a preliminary prospectus or a (final) prospectus for an investment fund

Appendix B

Examples of Fees for Reporting Issuers and Registrants under the Current Fee Schedule and Under the Proposed Fee Schedule

Corporate Finance Fees:

The following table demonstrates fees that would be payable under the new fee schedule against fees that were actually paid by selected reporting issuers in calendar 1998 and 1999.

<u>Issuer</u>		<u>Actual Fees Paid</u>	<u>Fees under the New Fee Schedule</u>		
<u>Type of Issuer</u>	<u>Market Capitalization of Issuer</u>		<u>Activity Fees</u>	<u>Participation Fees</u>	<u>Total Fees</u>
POP issuer - 1 offering	\$500 million to <\$1 billion in 1998 and \$1 billion to <\$5 billion in 1999	\$27,902	\$2,000	\$80,000	\$82,000
Non-POP issuer - 1 offering	under \$25 million in 1998 and \$25 million to <\$50 million in 1999	\$7,890	\$5,500	\$2,250	\$7,750
POP issuer - 3 offerings	\$10 billion to \$25 billion in both years	\$151,530	\$6,000	\$140,000	\$146,000

Capital Markets Fees:

The following examples demonstrate fees that would be payable under the new fee schedule by registrants against fees that were actually paid by 7 registrants in calendar 1999.

Registrant 1: Manager of Mutual Funds - Registered as Adviser and Mutual Fund dealer

- ! 2 applications for registration related exemption
- ! 4 appointments of officers
- ! 2 appointments of new salespersons
- ! 3 changes to officers
- ! 1 renewal of registration
- ! 4 new mutual funds established
- ! Annual financial statements for 40 mutual funds filed
- ! Annual prospectus renewal for 40 mutual funds (based on gross sales for the preceding year)
- ! Amendments to prospectuses for 15 mutual funds
- ! 1 application for exemption from Rules and Legislation (mutual fund related)

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$156,000	\$1,770,000	–	\$1,926,000
Proposed Fee Model	\$6,200 (activity fees)	\$26,400 (activity fees)	\$350,000	\$382,600

Registrant 2 - Fund Manager and Distributor - Registered as Mutual Fund Dealer

- ! 2 new appointments of directors
- ! 1 Registration exemption application
- ! 49 non resident salespersons

Request for Comments

- ! 494 new resident salespersons
- ! 91 new or amended branches
- ! 2 status changes of trading officers
- ! 6 termination of officers and directors
- ! 1 Renewal of Registration
- ! 8 new mutual funds established
- ! Annual financial statements for 31 mutual funds filed
- ! Annual prospectus renewal for 31 mutual funds (based on gross sales for the preceding year)
- ! 1 application for exemption from Rules and Legislation (mutual fund related)

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$1,296,800	\$463,900	–	\$1,760,700
Proposed Fee Model	\$219,500 (activity fees)	\$24,900 (activity fees)	\$200,000	\$444,400

Registrant 3: Portfolio Manager/Investment Counsel, registered as Adviser

- ! 1 renewal of registration

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$2,620	–	–	\$2,620
Proposed Fee Model	– (activity fees)	– (activity fees)	\$7,500	\$7,500

Registrant 4 - Portfolio Manager/Investment Counsel (with private mutual funds) - Registered as Adviser

- ! 1 renewal of registration
- ! Filing of financial statements for the distribution of 6 private mutual funds
- ! Private placement fees and private mutual funds *

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$6,000	\$1,500	–	\$7,500
Proposed Fee Model	– (activity fees)	– (activity fees)	\$25,000	\$25,000

* actual fees paid not known and therefore not indicated

Registrant 5: Mutual Fund Dealer

- ! 15 appointments of salespersons
- ! 55 new Branch registration
- ! 8 name changes
- ! 1 renewal of registration

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$59,100	–	–	\$59,100
Proposed Fee Model	\$6,000 (activity fees)	– (activity fees)	\$25,000	\$31,000

Request for Comments*Registrant 6: Dealer, Member of the Investment Dealers Association of Canada*

- ! 3 appointments of new officers/directors
- ! 24 appointments of non resident trading officers under OSA
- ! 2 appointments of non resident trading officers under OSA and CFA
- ! 21 appointments of resident trading officers under OSA
- ! 3 appointments of resident trading officers under OSA and CFA
- ! 21 appointments of non resident trading salespersons under OSA
- ! 3 appointments of non resident trading salespersons under OSA and CFA
- ! 139 appointments of resident trading salespersons under OSA
- ! 28 new Branch registration
- ! 33 status changes of officers, directors and salespersons
- ! 48 Terminations of officers and directors
- ! 1 Title change
- ! 1 renewal of registration

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$1,100,000	–	–	\$1,100,000
Proposed Fee Model	\$98,400 (activity fees)	– (activity fees)	\$600,000	\$698,400

Registrant 7 - Dealer - Member of the Investment Dealers Association of Canada

- ! 1 new appointment of director
- ! 2 terminations of officers and directors
- ! 1 renewal of registration

	<u>Registration Fees</u>	<u>Mutual Fund Fees</u>	<u>Participation Fee</u>	<u>Total</u>
Calendar 1999	\$47,100	–	–	\$47,100
Proposed Fee Model	– (activity fees)	– (activity fees)	\$100,000	\$100,000

Appendix C

Continuous Disclosure Documents for Which the Related Fee has been Replaced by the Participation Fee

The participation fee will replace all continuous disclosure fees currently paid by market players. Documents considered to be continuous disclosure documents for this purpose are as follows:

- ! annual financial statements and interim financial statements
- ! annual reports
- ! reports on Form 28 - Annual Filing of Reporting Issuer
- ! renewal annual information forms filed by issuers that participate in the prompt offering prospectus system and all annual information forms filed by issuers that do not participate in the prompt offering prospectus system
- ! management's discussion and analysis
- ! management proxy materials
- ! material change reports
- ! insider trading reports
- ! reports on Form 45-501F1 - Report of a Trade under Clause 72(1)(a), (b), (c), (d), (l), (p) or (q) of the Act, Section 2.4, 2.5 or 2.11 of Rule 45-501 or Subsection 2.1(1) or Paragraph 2.2(d) or 2.3(d) of Rule 45-504
- ! reports on Form 43 relating to normal course issuer bids
- ! annual reports of distributions pursuant to subclause 72(1)(f)(iii) of the Act relating to securities issued through the exercise of a right to purchase, convert or exchange previously granted by an issuer
- ! reports of distributions pursuant to Rule 45-503 relating to the operation of employee option and share purchase plans
- ! reports of distributions pursuant to subclause 72(1)(i) of the Act relating to statutory amalgamations and arrangements
- ! reports on Form 22 - Report made under Section 72(5) of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to be a Private Company
- ! reports on Form 23 - Notice of Intention to Distribute Securities and Accompanying Declaration Pursuant to Section 72(7) of the Act
- ! prospecting syndicate agreements
- ! notices under subsection 8(2) of the Act relating to Commission reviews of Director's decisions
- ! applications under subsection 72(8) of the Act for a reporting issuer certificate

- ! applications under section 83 of the Act for an order deeming the issuer to have ceased to be a reporting issuer under the Act
- ! applications for written permission of the Director under subsection 38(3) of the Act permitting the applicant to make certain listing representations in a document
- ! applications for waivers of the requirements of Rule 52-501
- ! strip bond information statements
- ! undertakings with respect to eurosecurity financings

Appendix D

Calculation of Market Capitalization for the Participation Fee for Reporting Issuers

Different types of reporting issuer market players will be required to use different calculations to determine their market capitalization. The classes of market players for this purpose are as follows:

- ! issuers incorporated in Canada with a class of securities listed and posted for trading on a Canadian stock exchange
- ! issuers incorporated in a jurisdiction outside of Canada (regardless of whether they have a class of securities listed and posted for trading on a Canadian stock exchange)
- ! other issuers (i.e. issuers not included in either of the two preceding categories)

Issuers Incorporated in Canada with a Class of Securities Listed and Posted for Trading on a Canadian Stock Exchange

The “market capitalization” for this group of issuers (the largest segment of Ontario reporting issuers) will be calculated based on the following formula for each class of equity or debt securities:

“A” x “B”

“A” equals the number of listed securities of a class of equity or debt securities of the issuer as at the end of the issuer’s last fiscal period as published by any Canadian stock exchange

“B” equals the simple average of the closing price of such class of equity or debt securities of the issuer as of the last trading day of each of the last twelve months of the issuer’s last fiscal period as published by any Canadian stock exchange, translated to Canadian dollars at the closing rate in effect at the end of the issuer’s last fiscal period, if applicable

Where an issuer has more than one class of equity or debt securities outstanding, the formula above shall be applied to each class of equity or debt securities outstanding and the market capitalization for that issuer shall be the sum of all of these calculations. The market capitalization for income trusts listed on a Canadian stock exchange should be determined with reference to this formula, notwithstanding that the trust may technically meet the definition of a mutual fund as set out in the Act.

Foreign Issuers

Foreign issuers (defined to be issuers incorporated outside of Canada) shall determine “market capitalization” based on the following formula for each class of equity or debt securities sold in the Province of Ontario:

“A” x “B”

“A” equals the aggregate number of equity or debt securities of a class of securities of the foreign issuer distributed into the Province of Ontario either pursuant to a (final) prospectus or pursuant to an exempt distribution

“B” equals the simple average of the published closing market price of that class of equity or debt securities of the market player as of the last trading day of each of the last twelve months of the issuer’s fiscal period. Market price shall be calculated with reference to the market on which the highest volume of that class of equity or debt securities of the issuer are traded based on the trading days in the last three months of the most recent fiscal period of the issuer, converted to Canadian dollars at the closing rate in effect at the end of the issuer’s last fiscal period

Where an issuer has more than one class of equity or debt securities outstanding which have been distributed into the Province of Ontario, the formula above shall be applied to each class of equity or debt securities outstanding and the market capitalization for that issuer shall be the sum of all of these calculations.

Other Issuers

In situations where the market player is a reporting issuer and the issuer does not fit into any other category of issuer described above, the issuer’s “market capitalization” equals the book value capitalization of the market player based on the audited financial statements of the market player as at its most recent audited year end. Book value capitalization for this purpose will be the aggregate of the stated value from the audited financial statements of the following items: retained earnings or deficit, contributed surplus, common stock, options, warrants, preferred stock (whether such stock is classified as debt or equity for financial reporting purposes), long term debt (including that portion classified as short term debt for financial reporting purposes), capital leases (including that portion classified as short term for financial reporting purposes), minority interest, items classified on the balance sheet between current liabilities and shareholders’ equity (and not otherwise listed above) and any other item forming part of shareholders’ equity not set out specifically above. For issuers with unclassified balance sheets, long term debt for the purposes of this calculation shall be the total of all items shown on the balance sheet as liabilities (other than those items relating to trade accounts payable).

Appendix E
Calculation of Gross Revenues for the Participation Fee
for Registrants and Unregistered Fund Managers

The proposed form to be completed by a registrant firm in connection with the calculation of its "gross revenues" necessary to determine the quantum of participation fees to be paid is set out below.

Revenue for Participation Fee Questionnaire
General Notes and Instructions

1. Registrants are required to complete each Part that applies to their particular category of registration. Firms may have multiple registration categories and will be required to complete each relevant part as outlined below:

Part I - Investment Dealers Association of Canada members

Part II - Mutual Fund Dealers Association of Canada members

Part III - Advisers¹ and other Dealers²

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"). 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. Each Part should be read in conjunction with the related notes and instructions of that section where applicable.
4. Members of the Investment Dealers Association of Canada may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.
5. Members of the Mutual Fund Dealers Association of Canada may refer to Statement D of the MFDA Financial Questionnaire and Report for guidance.
6. Comparative figures are required for the registrants' year end date.

¹ Includes all adviser categories as per section 99 of the Regulations in the *Securities Act* (Ontario) such as financial advisers, investment counsel, portfolio managers and securities advisers. This category also includes non-resident advisers and international advisers.

² Includes all dealer categories as per section 98 of the Regulations in the *Securities Act* (Ontario) except mutual fund dealers which are treated separately in Part II.

7. 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 Ontario tax return for the same fiscal period. For non-resident and international registrants, where no tax is paid provincially due to the lack of a permanent establishment, the percentage attributable to Ontario will be based on the proportion of total revenues generated from Ontario residents. Refer to Part IV.
8. All figures should be expressed in Canadian dollars and rounded to the nearest thousand.
9. Information reported on this questionnaire must be certified by two members of senior management in Part VI to attest to its completeness and accuracy.

Revenue for Participation Fee

(Registrant Name)

For the period ending _____

Part I - Investment Dealers Association of Canada Members

	Current Year	Prior Year
	\$	\$
REVENUE SUBJECT TO PARTICIPATION FEE		
1. Line 18 of Statement E of the Joint Regulatory Financial Questionnaire and Report	_____	_____

Part II - Mutual Fund Dealers

REVENUE SUBJECT TO PARTICIPATION FEE		
1. Line 12 of Statement D of the MFDA Financial Questionnaire and Report	_____	_____

Part III - Advisers, Fund Managers and Other Dealers

1. Gross Revenue as per the audited financial statements (note 1)	_____	_____
Less the following items:		
2. Redemption Fees (note 2)	_____	_____
3. Administration Fees (note 3)	_____	_____
4. Sub-Advisory fees paid to other Ontario registrants (note 4)	_____	_____
5. Trailer fees paid to other Ontario registrants (note 5)	_____	_____
6. Line 11 of Statement D (reported above if dually registered) (note 6)	_____	_____
7. Total Deductions - sum of lines 2 to 6	_____	_____
8. REVENUE SUBJECT TO PARTICIPATION FEE (line 1 less line 7)	_____	_____

[See Notes and Instructions for Part III]

NOTES AND INSTRUCTIONS - PART III

Notes

1. Gross Revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements prepared in accordance with GAAP. Items reported on a net basis must be adjusted for purposes of the fee calculation.
2. Redemption fees earned upon the redemption of mutual fund units sold on a deferred sales charge basis are permitted to be deducted from gross revenue on this line.
3. Administration fees permitted to be deducted from line 1 are limited solely to those that represent the recovery of costs from the mutual funds for operating expenses paid on their behalf by the Registrant. Operating expenses include legal, audit, trustee, custodial and safekeeping fees, registrar and transfer agent charges, taxes, rent, advertising, unitholder servicing and financial reporting costs.
4. Where the advisory services of **another Ontario registrant** are used by the Registrant to advise on a portion of its assets under management, such sub-advisory costs are permitted to be deducted on this line to avoid double counting.
5. Trailer fees paid to **other Ontario registrants** are permitted as a deduction on this line.
6. To the extent that a Registrant is also registered under the category of a mutual fund dealer defined in subsection 98(7) of the Regulations in the *Securities Act* (Ontario) and to the extent that revenues attributable to this category of registration were already reported in Part II, this amount may be deducted from gross revenue on this line to ensure it is not double counted for purposes of calculating the participation fee.

**Part IV - Allocation of Revenue to Ontario
Revenue for Participation Fee**

(Registrant Name)

As at _____

Total Revenue subject to Participation Fee: _____ \$

Line 1 from Part I _____

Line 1 from Part II _____

Line 8 from Part III _____

Total _____

Percentage attributable to Ontario _____ %
(based on most recent tax return)

Total Revenue attributable to Ontario _____

Total Fee payable (refer to Part V) _____

[See Notes and Instructions]

Part V - Participation Fee

Gross Revenues Attributable to Ontario	Annual Participation Fee
under \$500,000	\$750
\$500,000 to under \$1 million	\$2,000
\$1 million to under \$5 million	\$7,500
\$5 million to under \$10 million	\$15,000
\$10 million to under \$25 million	\$25,000
\$25 million to under \$50 million	\$50,000
\$50 million to under \$100 million	\$100,000
\$100 million to under \$200 million	\$200,000
\$200 million to under \$500 million	\$350,000
\$500 million to under \$ 1 billion	\$500,000
over \$1 billion	\$600,000

**Part VI - Management Certification
Revenue for Participation Fee**

(Registrant 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. _____ _____	_____	_____

Appendix F

Economic Analysis Overview

The focus in the economic analysis of the fee concept proposal was confined to stress-testing and refinement of the checking for fairness in the application of the fee structure. The structure of the proposed model was established well before the introduction of the economist role to the OSC. In any case, a cost-based model with an implied reduction in volatility and improvement in fairness is superior to both the approach used previously and the models established in other countries in the context of current capital markets.

The initial challenge arose from the substantial change proposed to take place in the basis of fees charged. The departure from previous practice meant that the historical data for OSC fees was of limited relevance. For the participation fees, data on market capitalization and corporate revenue flows was obtained from the Toronto Stock Exchange Inc., the Investment Dealers Association (the "IDA") and Statistics Canada financial databases. The definition of revenue and the selective nature of the registrant group required testing a large number of potential series available against the data available from the OSC for a suitably high level of confidence. For employee and transaction-based activity fees, data was obtained from the sources noted above with additional series from the Bank of Canada.

Market capitalization and corporate revenue for the relevant sectors were both moderately volatile over the course of the current expansion with a 15% average rate of change doubling when the analysis was extended through the last economic downturn. Broadening the bands in the participation fee structure to account for 99% of the historical volatility should eliminate most of the substantial swings in the revenue base of the OSC from this source as well as limiting the year-to-year changes in industry costs. In addition, an extension of the bands at the upper end will reduce the frequency of changes in the rates which might be needed to offset the loss in revenue associated with the trend rate of increase in the revenue base.

The slope of the revenue curve was another key issue in the design of the participation fee schedule. That is, should the percentage rate change as the base rises? The precepts in this design involved a balancing act between the costs incurred by the OSC and the benefits received by the recipients. The cost of reviewing or registering a large company doesn't rise in proportion with market cap or revenue. However, the benefits received through participation in the market in terms of ease of access or cost of capital are at least proportional. This analysis suggested a modest decline in the percentage rate as the revenue base rises and a shift to some degree of homogeneity between capital markets and corporate finance in order to promote fairness across sectors.

While data on public companies and IDA participants is readily accessible, many of the financial firms encompassed by the capital markets don't produce public balance sheets with the entries required in the proposed schedule. Estimation of the probable revenue flow and refinement of the fees to reflect the concentration rate of the industry required a survey be done. With a response rate of roughly 50%, the OSC has a high degree of confidence in the reliability of those results. The data gained allowed us to make further improvements in the schedule to reduce volatility and the potential negative impact of the fee changes on any particular segment as well as improving fairness.

Most of the fees based on activities, with the notable exception of employment, showed extreme volatility over the course of the business cycle, frequently in excess of several thousand percent. The nature of the fees doesn't fit the bracket approach or other alternative means of reducing instability. In order to enhance the predictability of the revenue stream and the cost base for the industry, some further reduction in the combined participation and activity fee volatility was considered useful. While the fees are an extremely modest part of virtually all of the activities considered, reducing this component overall represents a positive step in removing an impediment to actions such as undertaking an issue or hiring additional staff.

As a result, the proportion of the fee base on the participation side was increased relative to activities within the bounds of maintaining a cost-based approach. This should reduce average volatility in the revenue base to the 4% area and essentially eliminate the risk of having to change the rate schedule during an extended economic downturn in order to meet costs.

Overall, the new model represents a substantial improvement in terms of fairness and stability over the one currently in place or the alternatives presented outside of Canada. Many other jurisdictions internationally impose a per trade fee, a negative feature in terms of efficiency and liquidity. For issuers, spreading the cost out over the market participants more accurately reflects the benefits received as well as the costs incurred in a continuous disclosure system. In addition, the marginal costs associated with a new issue should fall substantially, also carrying the potential to enhance the liquidity in the financial markets.