

ANNEX B
LOCAL MATTERS (REGULATORY IMPACT ASSESSMENT) – ONTARIO

1. Qualitative and quantitative analysis of the anticipated costs and benefits of the Proposed Amendments

OSC staff (the **OSC**, the **Commission** or **we**) have undertaken an analysis of the anticipated costs and benefits of the Proposed Amendments, as set forth below, to analyze the regulatory need for the proposed rule changes. This analysis includes the potential economic impacts, including anticipated costs and benefits, relative to the current baseline (where no additional activity fees are paid by restricted dealers in relation to the Commission’s oversight of the new and emerging sectors).

The fee structure model set out in the Proposed Amendments is based on a ‘cost-recovery model’ – it is designed to recover the Commission’s costs to provide protection to investors, promote efficient capital markets and confidence in capital markets, foster capital formation, and to contribute to the stability of the financial system and the reduction of systemic risk.

Proposed Additional Firm Registration Fee for Restricted Dealers and Additional Fee for Restricted Dealers Performing Marketplace Functions

It is important that the OSC’s oversight continues to evolve to adequately address the complexity and growth in new and emerging sectors which include Crypto-Asset Trading Platforms (**CTPs**). These businesses, which require significant resource efforts to initiate compliance discussions, are typically registered as restricted dealers and they typically agree to terms and conditions at the registration stage. The OSC tailors each restricted dealer registration with specific requirements or conditions by exempting them from various aspects of the *Securities Act* (Ontario) (**OSA**).

The OSC has and continues to observe higher onboarding costs, that is, to register and exempt restricted dealers and restricted dealers performing marketplace functions. Additional activity fees considerations are relevant given OSC staff perform specific regulatory functions that directly benefit the firms applying for registration/exemption. Accordingly, restricted dealers activity was assessed for the additional costs to register and provide exemptive relief for restricted dealers, and specifically referencing work undertaken with CTPs, who form the majority of restricted dealers.

Proposed Change in Definition of “registrant firm”

The current definition of “registrant firm” in *Ontario Securities Commission Rule 13-502 Fees* and *Ontario Securities Commission Rule 13-503 Commodity Futures Act* (the **Fee Rules**) does not extend to unregistered persons or companies that are required to be registered as dealers, advisers, or investment fund managers. The proposed change to the Fee Rules would extend the application of participation fee and late fee requirements to unregistered firms that are required to be registered. The proposed changes to the definitions of “registrant firm” in the Fee Rules are intended to achieve a more equitable allocation of regulatory costs amongst participants in Ontario’s capital markets.

The proposed changes to the definition of “registrant firm” in each of the Fee Rules will mean that, after the coming into force of these changes, unregistered firms that participate in Ontario’s capital markets in non-compliance with the relevant dealer, adviser and investment fund manager requirements in either the *OSA* or the *Commodity Futures Act* (Ontario) (**CFA**) – as a result of their failure to obtain registration - will become responsible under the corresponding Fee Rule for paying the participation fees applicable to other registered firms that are now included within the definition of a registrant firm.

1.1 The anticipated costs of the Proposed Amendments

Where feasible, we have used available information to quantify the anticipated costs of the Proposed Amendments.

1.1.1 Costs of Proposed Additional Fees for Restricted Dealers

1.1.1.0 Anticipated fees to be paid under the Proposed Amendments

Restricted Dealers

There is an estimated \$24,500 in additional OSC costs to register restricted dealers with terms and conditions compared to typical firm registrations. The additional work is required in order to assess the appropriate regulatory framework considering business models that are complex. Historically, the average registration fees paid by a restricted dealers amounted to approximately \$2,600. Accordingly, the OSC proposes an additional \$24,500 registration fee for restricted dealers, to better align fees with costs.

Once registered, restricted dealers are subject to annual participation fees within the OSC's existing fee structure.

Restricted Dealers Performing Marketplace Functions

Under the interim approach¹, a CTP performing marketplace functions needs to register as a restricted dealer. Firms will file an Exemptive Relief Application (ERA) to obtain exemption from operating as a recognized Alternative Trading System (ATS). There is an estimated \$24,500 in additional OSC costs to review ERAs for restricted dealers compared to a typical ERA. Accordingly, the OSC proposes an additional \$24,500 exemption fee in addition to existing ERA fees which range between \$4,800 and \$7,000.

Firms looking to operate a marketplace platform would incur total additional onboarding fees of \$49,000: \$24,500 to apply as a restricted dealer and \$24,500 for those restricted dealers performing marketplace functions.

The table below summarizes the total one-time and ongoing fee implications during the interim period for restricted dealers and restricted dealers performing marketplace functions:

¹ As described in CSA Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements*

	Restricted Dealer	Restricted Dealer who also performs marketplace functions
One-time fees		
Registration fee *	\$ 2,600	\$ 2,600
ERA fee **	7,000	7,000
NEW: Registration fee for restricted dealer	24,500	24,500
NEW: ERA fee for restricted dealer who also performs marketplace functions	-	24,500
Total	\$ 34,100	\$ 58,600

* Fee begins at \$1,300 per firm, increasing based on number of categories of registration and representatives. \$2,600 represents average fee paid by registered crypto dealers/brokers.

** ERA fees are either \$4,800 or \$7,000, depending on whether one or two or more sections of the OSA are requested from exemption. Most CTPs require relief from two or more sections of the OSA, which means most CTPs are required to pay the \$7,000 ERA fee.

Approximate one-time fees are estimated to be \$34,100 and \$58,600 for restricted dealers and restricted dealers performing marketplace functions, respectively.

Change in Definition of “registrant firm”

The change in the definition of “registrant firm” will only have an impact on unregistered firms that participate in Ontario’s capital markets in non-compliance with the relevant dealer, adviser and investment fund manager requirements in either the OSA or the CFA. The cost to the unregistered firm would be their staff’s time to prepare an estimate for the Ontario specified revenues for the year(s) of which they were not registered. The cost of this time, by firm, could amount to approximately \$764.

1.1.1.1 Other implementation costs to anticipated fee payers

Generally, anticipated fee payers will incur initial and ongoing costs from analyzing the Proposed Amendments and updating policies and procedures for compliance with any terms and conditions agreed upon for registration.

1.1.1.2 Direct costs to investors or other end-users of Restricted Dealers

There will be no direct costs to investors or end-users in arrangements with restricted dealers from the Proposed Amendments.

1.2 The anticipated benefits of the Proposed Amendments

In this section, we present our assessment of the anticipated benefits of the Proposed Amendments. Overall, the Proposed Amendments and appropriate funding benefit the public interest by providing the resources to allow the OSC to maintain its commitment to proactively consider regulatory implications of new and emerging sectors and fulfill its mandate.

1.2.1 Benefits from Additional Fees for Restricted Dealers

The benefits of the Proposed Amendments relating to the additional fees for restricted dealers include the following:

1.2.1.1 Effectively align fees to costs and proactively manage cross-subsidization

In the absence of the Proposed Amendments, the OSC will not be able to effectively manage cross-subsidization. There has been a need for additional resources to support onboarding restricted dealers compared to most existing market participants, supporting the additional fees. Furthermore, the additional fees will allow the OSC to better manage cross-subsidization of the regulatory costs associated with these emerging/novel sectors, minimizing the need for fees to be paid by market participants not in emerging/novel sectors.

1.2.1.2 Adequate funding will enable the OSC to fulfill its mandate

The OSC's mandate is to protect investors from unfair, improper or fraudulent practices, to foster fair, efficient and competitive capital markets and confidence in the capital markets, to foster capital formation, and to contribute to the stability of the financial system and the reduction of systemic risk. Additional fees relating to restricted dealers will enable the OSC to:

- provide oversight of the emerging/novel sector(s) and related risks and vulnerabilities;
- identify challenges in the emerging/novel sector(s) that may impede market efficiency;
- identify opportunities to strengthen and increase the competitiveness and growth of Ontario markets, and improve policy development; and
- improve coordination and cooperation with other provincial, federal, and foreign agencies to enhance the identification of vulnerabilities and manage risks;
- fund the OSC's efforts to protect Ontario investors from systemic risk and misconduct by providing the OSC with the necessary resources to continue to design and implement a framework for oversight of restricted dealers.

1.2.1.3 Additional fees are simple and easy for market participants to administer

The additional fees contemplated by the Proposed Amendments are fixed at \$24,500 for registration of restricted dealers and a \$24,500 Exemptive Relief Application (ERA) fee for restricted dealers who also perform marketplace functions. Firms looking to operate a marketplace platform would incur total additional onboarding fees of \$49,000: \$24,500 to apply as a restricted dealer and \$24,500 for those

restricted dealers performing marketplace functions. The implementation of the Proposed Amendments will not require significant system or process changes by firms but rather the fee will accompany their filings.

1.2.1.4 *Fairness to market participants*

The proposed changes to the definition of “registrant firm” contemplated by the Proposed Amendments are intended to achieve a more equitable allocation of regulatory costs amongst participants in Ontario’s capital markets. Similarly, as noted for the additional fee of the Proposed Amendments, the change in the definition of “registrant firm” will not require significant system or process changes by firms but rather time by the firm’s staff to calculate Ontario specified revenues.

2. Legislative Authority for Rule Making

The following provision of the *OSA and CFA* provides the Commission with the authority to make the Proposed Amendments:

- Paragraph 43 of subsection 143(1) of *OSA* authorizes the Commission to make rules prescribing fees payable to the Commission.
- Paragraph 25 of subsection 65(1) of the *CFA*, which authorizes the Commission to make rules prescribing fees payable to the Commission.

3. Alternatives Considered

The Commission considered maintaining the existing Fee Rule; however, as additional resource requirements are necessary to onboard restricted dealers when compared to most existing market participants, new fees are necessary. In continuing to provide a tailored regulatory regime to support restricted dealers, which include CTPs; the Commission’s regulatory activity has been significant in dealing with emerging sectors. This approach allows the OSC to maintain its commitment to proactively consider regulatory implications of new and emerging sectors.

The alternative to expanding the definition of “registrant firm” would be to maintain the definition as it is. However, the proposed changes to the definitions of “registrant firm” in the Fee Rules are intended to achieve a more equitable allocation of regulatory costs amongst participants in Ontario’s capital markets.

4. Reliance on Unpublished Studies

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