

**May 30, 2016**

### **Introduction**

The Alberta Securities Commission (**ASC**) is adopting ASC Rule 13-501 *Fees* (**Fee Rule**). This Fee Rule will replace sections 8 and 9 and the Fee Schedule in the Securities Regulation (Alta. Reg. 115/95).

The text of the Fee Rule is contained in Annex A of this notice and will also be available on the ASC website, [www.albertasecurities.com](http://www.albertasecurities.com).

Subject to obtaining the necessary Ministerial approval, the Fee Rule will come into force on December 1, 2016.

### **Substance and Purpose**

The Fee Rule covers the payment of all fees to the ASC, including fees that must accompany annual filings or registrations, as well as those that must accompany certain filings such as prospectuses, notices and applications.

In addition to increasing some existing fees, the Fee Rule establishes new participation fee models for reporting issuers and specified regulated entities (which includes but is not limited to exchanges and clearing agencies).

### **Background**

The ASC aims to ensure that Alberta market participants do not endure excessive financial burden as a result of this Fee Rule. Nonetheless, these changes are necessary to increase the ASC's revenues in order to meet our existing operational budget in fiscal 2017 and onward.

The ASC's last fee increase was implemented almost 10 years ago, other than increases to some late filing fees. The ASC's regulatory obligations have increased and evolved since that time. The Fee Rule is required to ensure that the ASC continues to deliver quality results in accordance with its mandate and to prevent the continued operational deficit which the ASC is currently projecting.

On November 2, 2015 the ASC published Proposed ASC Rule 13-501 *Fees* (**Original Proposal**) for comment. The comment period ended on January 18, 2016 and the ASC received 5 comment letters.

### **Summary of Written Comments Received by the ASC**

We have considered all of the comments received and thank all of the commenters for their input. The names of commenters are contained in Annex B of this notice. A summary of those comments and our responses to the comments are contained in Annex C of this notice.

### **Summary of Changes to the Fee Rule**

After considering the comments received and new developments since publication of the Original Proposal, we have made some revisions to the materials that were published for comment.

Since publishing the Original Proposal for comment, the ASC has achieved further efficiencies in its operations and is projecting that the ASC will require less revenue for its operations in the near future. Given the current economic climate in Alberta, the ASC considers it appropriate to reduce some of the new fees in the Fee Rule.

The Fee Rule introduces a new participation model for reporting issuers which results in fee increases for reporting issuers. The ASC considered it appropriate to reduce the participation fees payable by reporting issuers in Appendix A and Appendix B of the Original Proposal as well as those payable by investment funds under s. 15(1)(d) of the Original Proposal.

After considering comments received, we have amended section 7 of the Original Proposal to clarify that the fee is only payable if a notice under section 11.9 or section 11.10 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* is required to be filed in Alberta.

These revisions are reflected in the Fee Rule in Annex A which we are publishing concurrently with this notice. As these changes are not material, we are not republishing the Fee Rule for a further comment period.

### **Consequential Amendments**

If the Fee Rule receives Ministerial approval, the ASC will also seek to have sections 8 and 9, and the fee schedule repealed from Alberta Securities Regulation 115/1995.

### **Contents of Annexes**

The following annexes form part of this ASC Notice:

Annex A                      ASC Rule 13-501 *Fees*

INCLUDES COMMENT LETTERS

Annex B	Names of Commenters
Annex C	Summary of Comments and Responses

**Questions**

Please refer your questions to any of the following:

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INCLUDES COMMENT LETTERS

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**ALBERTA SECURITIES COMMISSION RULE 13-501**  
***FEEES***

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**PART 1**  
**DEFINITIONS AND INTERPRETATION**

**Definitions**

**1. (1) In this Rule**

“alternative trading system” means an alternative trading system as defined by National Instrument 21-101 *Marketplace Operation*;

“Canadian trading share”, in relation to a person or company that is a specified regulated entity for a specified period, means the average in the specified period of

- (a) the share of the person or company of the total dollar values of trades of exchange-traded securities in Canada,
- (b) the share of the person or company of the total trading volume of exchange-traded securities in Canada, and
- (c) the share of the person or company of the total number of trades of exchange-traded securities in Canada;

“Class 1 reporting issuer” means a reporting issuer, other than a Class 2 reporting issuer, Class 3A reporting issuer or a Class 3B reporting issuer, that at the end of its previous financial year, has securities listed or quoted on a marketplace;

“Class 2 reporting issuer” means a reporting issuer that does not have securities listed or quoted on a marketplace, and that is incorporated or organized under the laws of Canada or a jurisdiction in Canada;

“Class 3A reporting issuer” means a reporting issuer that is not incorporated under the laws of Canada or a province or territory and that

- (a) had no securities listed or quoted on any marketplace at the end of its previous financial year, or
- (b) had securities listed or quoted on a marketplace at the end of its previous financial year and all of the following apply:
  - (i) at the end of its previous financial year, securities registered in the names of persons or companies resident in Alberta represented less than 1% of the market value of all of the reporting issuer’s outstanding securities for which it or its transfer agent or registrar maintains a list of registered owners;
  - (ii) the reporting issuer reasonably believes that, at the end of its previous financial year, securities beneficially owned by persons or companies

resident in Alberta represented less than 1% of the market value of all its outstanding securities;

- (iii) the reporting issuer reasonably believes that none of its securities traded on a marketplace in Canada during its previous financial year;
- (iv) the reporting issuer has not issued any of its securities in Alberta in the last 5 years, other than
  - (A) to its employees or to employees of one or more of its subsidiaries, or
  - (B) to a person or company exercising a right previously granted by the reporting issuer or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration;

“Class 3B reporting issuer” means a reporting issuer that

- (a) is not a Class 3A reporting issuer, and
- (b) is a designated foreign issuer or an SEC foreign issuer as those terms are defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

“gross proceeds” means the total proceeds realized from the distribution, sale, conversion or exchange of securities under a prospectus or in reliance on an exemption from prospectus requirements including any proceeds realized pursuant to the reinvestment of dividends or the distribution of income or capital gains;

“highest trading marketplace” means

- (a) the marketplace on which the highest volume in Canada of the class or series was traded in the previous financial year and which discloses regularly the prices at which those securities have traded,
- (b) if the class or series was not traded in the previous financial year on a marketplace in Canada, the marketplace on which the highest volume in the United States of America of the class or series was traded in the previous financial year and which discloses regularly the prices at which those securities have traded, or
- (c) if the class or series was not traded in the previous financial year on a marketplace in Canada or the United States of America, the marketplace on which the highest volume of the class or series was traded in the previous financial year and which discloses regularly the prices at which those securities have traded;

“interim period” has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*;

“marketplace” has the same meaning as in NI 21-101;

“money market fund” has the same meaning as in National Instrument 81-102 *Investment Funds*;

“MTN Program” has the same meaning as in National Instrument 44-102 *Shelf Distributions*;

“net proceeds” means the gross proceeds realized in Alberta from the distribution of a money market fund under a prospectus less the aggregate of the redemption or repurchase price paid to redeem or repurchase securities of the fund held by persons in Alberta during the period since the receipt for the prospectus was issued;

“notice of proceeds” means a written notice to the Executive Director of the aggregate gross or net proceeds, as the case may be, realized in Alberta by an issuer or security holder from a distribution of securities;

“previous financial year” means the most recently completed financial year of the person or company;

“realized in Alberta” means distributed in or sold to purchasers in Alberta;

“registered firm” has the same meaning as in National Instrument 31-103 *Registration Requirements, Exemptions, and Ongoing Registrant Obligations*;

“Shelf Procedures” means the requirements of NI 44-102 for the distribution of securities under a base shelf prospectus and a shelf prospectus supplement;

“special warrant” means a security, (i) that is distributed in reliance on an exemption from prospectus requirements, (ii) that carries the right to purchase, convert or exchange the security, without payment of any material additional consideration, into another security, and (iii) in respect of which the issuer or selling security holder has agreed to file a prospectus for the distribution of the security received on the exercise of the right;

“specified period” means the period beginning on April 1 of the previous calendar year and ending on March 31 of the calendar year;

“specified regulated entity” means a person or company described in Part 6 of this Rule;

“specified trading period” means, in respect of a reporting issuer’s financial year, each period that is an interim period in the financial year and the period commencing on the first day of the financial year and ending on the last day of the financial year;



“subsidiary” means, subject to subsection 5 of the *Securities Act*, a subsidiary of a person or company as determined in accordance with the generally accepted accounting principles applying to the person or company.

(2) Unless otherwise defined in this Rule, terms defined in the Act have the same meaning in this Rule.

## **PART 2 APPLICATION**

### **Payment of fees**

2. Any fee payable to the Commission under the *Securities Act*, any regulation or any other legislative authority must be paid to the Commission in accordance with this Rule.

### **Waiver or refund of fees**

3. The Executive Director may waive or refund any fee in whole or in part that is payable under the *Securities Act*, or any regulation.

## **PART 3 REGISTERED INDIVIDUALS AND FIRMS**

### **Fees related to registration**

4. (1) A form prescribed under National Instrument 33-109 *Registration Information* that is submitted to the Executive Director to seek registration or any request for reinstatement after a suspension of registration must be accompanied by one of the following fees:

- (a) for a firm seeking registration as a dealer, adviser or investment fund manager, regardless of the number of categories, \$1400;
- (b) for an individual seeking registration to act on behalf of a firm, regardless of the number of categories, \$400.

(2) Despite subsection (1), no fee is payable by a registered person or company who is seeking registration in an additional category or categories.

(3) Despite paragraph (1)(b), no fee is payable for filing Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* where an individual joins a new sponsoring firm, unless the individual files the form in the calendar year following the date of the individual’s termination with the individual’s former sponsoring firm.

### **Annual registration fees**

**5. (1)** Registered persons and companies must pay the following annual registration fees on December 31 of each year:

- (a) for registered dealers, advisers or investment fund managers, regardless of the number of categories, \$1400;
- (b) for registered individuals, regardless of the number of categories, \$400.

**(2)** Despite paragraph (1)(a), no annual fee is payable by a dealer, adviser or investment fund manager whose registration is suspended as a result of a decision by the Executive Director or of the firm's principal regulator under Multilateral Instrument 11-102 *Passport System*.

**(3)** Despite paragraph (1)(b), no annual fee is payable for an individual whose registration is suspended as a result of the suspension of registration of the individual's sponsoring firm by a decision of the Executive Director or of the firm's principal regulator under MI 11-102.

### **International dealers and international advisers**

**6.** A fee of \$1400 must accompany any of the following:

- (a) Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* filed pursuant to either paragraph 8.18(3)(e) or paragraph 8.26(4)(f) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- (b) a notice given pursuant to either subsection 8.18(5) or subsection 8.26(5) of NI 31-103.

### **Acquisition of registered firm's securities or assets**

**7.** A notice required to be filed in Alberta under section 11.9 or section 11.10 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* must be accompanied by a fee of \$1750.

### **Fees for late documents**

**8. (1)** In this section, "document" means any of the following:

- (a) a subordination agreement delivered under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- (b) interim financial information and annual financial statements delivered under Division 4 of Part 12 of NI 31-103;

- (c) any document required to be filed, delivered or otherwise provided by a registered firm either pursuant to the terms and conditions imposed on that firm's registration, or pursuant to an undertaking given by that firm.

(2) A registered firm that files, delivers or otherwise provides a document after the date on which the document was required to be filed, delivered or otherwise provided must, concurrently with the filing, delivery or provision of the document, pay the Commission a late fee of \$100 for each day that elapses between the date the document was required to be filed, delivered or otherwise provided and the date on which the document is filed, delivered or otherwise provided.

(3) Despite subsection (2), the maximum late fee payable by a registered firm as a result of the operation of this section is \$5000 per document.

#### **PART 4 PROSPECTUS AND REPORTS OF EXEMPT DISTRIBUTION**

##### **Fees related to filing a prospectus**

**9. (1)** Every preliminary or pro forma prospectus filed other than for a mutual fund must be accompanied by a fee in the aggregate amount of

- (a) \$2000 for each issuer, and
- (b) \$2000 where there is one or more selling security holders whose securities may be distributed under the prospectus.

(2) Every preliminary or pro forma prospectus filed for a mutual fund must be accompanied by a fee in the aggregate amount of

- (a) \$1200 for each issuer, and
- (b) \$1200 where there is one or more selling security holders whose securities may be distributed under the prospectus.

(3) Despite subsections (1) and (2), every preliminary prospectus filed, other than for the distribution of securities on the exercise of a right under a special warrant, where the value of the distribution of securities under the prospectus will not exceed \$1 000 000, must be accompanied by a fee of \$250 for each issuer or selling security holder whose securities may be distributed under it.

##### **Fees for distribution of securities**

**10. (1)** For every prospectus filed for the distribution of securities, the issuer or selling security holder must file a notice of proceeds.

(2) For every prospectus filed for the distribution of securities, the issuer or selling security holder that is not a reporting issuer must pay a fee equal to the amount, if any, by which 0.025%

of the gross proceeds realized in Alberta by the issuer or selling security holder from the distribution of securities under the prospectus exceeds the fees paid under section 9

- (a) in the case of a non-continuous distribution of securities, within 30 days from the earlier of
  - (i) the completion of the distribution under the prospectus, and
  - (ii) 12 months from the date the receipt for the prospectus is issued,and
- (b) in the case of a distribution of securities under the Shelf Procedures, within 25 months from the date that the receipt for the prospectus is issued or,
  - (i) in respect of a continuous distribution, other than under a MTN Program, 5 business days after the end of each month with respect to the securities distributed during that month,
  - (ii) in respect of a distribution under a MTN Program, on filing a pricing supplement with respect to the securities distributed under the pricing supplement, or
  - (iii) in respect of all other distributions, 30 days from completion of the distribution under a shelf prospectus supplement with respect to the securities distributed under the shelf prospectus supplement,

whichever is the earliest.

(3) Despite subsections (1) and (2), except for the distribution of securities under the Shelf Procedures, the issuer or selling security holder for every prospectus filed for the continuous distribution of securities

- (a) on the filing of a new prospectus to continue the distribution under the prospectus, or
- (b) if a new prospectus is not filed, within 13 months from the date that the receipt for the prospectus is issued,

must

- (c) file a notice of proceeds, and
- (d) pay a fee equal to the amount, if any, by which the fees paid in section 9 are exceeded by one of the following amounts of proceeds realized in Alberta by the issuer or selling security holder from the distribution under the prospectus:
  - (i) in the case of a money market fund, 0.02% of the net proceeds;

- (ii) in the case of any other mutual fund, 0.02% of the gross proceeds;
- (iii) in any other case, 0.025% of the gross proceeds.

(4) This section does not apply to distributions of securities referred to in subsection 9(3).

#### **Fees for reports of exempt distribution**

**11. (1)** A report of exempt distribution required to be filed in connection with the use of an exemption from the prospectus requirements under Alberta securities laws must be accompanied by a fee equal to the greater of

- (a) \$200, and
- (b) one of the following amounts of the proceeds realized by the issuer or selling security holder from purchasers in Alberta of the securities described in the report:
  - (i) in the case of a money market fund, 0.02% of the net proceeds;
  - (ii) in the case of any other mutual fund, 0.02% of the gross proceeds;
  - (iii) in any other case, 0.025% of the gross proceeds.

(2) Despite subsection (1), a report of exempt distribution required to be filed by a reporting issuer that is not an investment fund in connection with the use of an exemption from the prospectus requirements under Alberta securities laws must be accompanied by a fee of \$200.

(3) Despite subsections (1) and (2), every report of exempt distribution filed in respect of a trade in securities where there is no change in beneficial ownership of the securities as a result of the trade must be accompanied by a fee of \$200.

(4) If a report of exempt distribution required to be filed by a person or company pursuant to National Instrument 45-106 *Prospectus Exemptions* is not filed within the period of time prescribed by Alberta securities laws, the person or company must, concurrently with the filing of the report, pay the Commission a late fee of \$100 for each day that elapses between the date the report was required to be filed and the date on which the report is filed.

(5) Despite subsection (4), the maximum late fee payable by a person or company as a result of the operation of this section is \$1000 per report.

#### **Notice for distribution of rights**

**12. (1)** Every notice filed for the distribution of rights under section 2.1 of National Instrument 45-106 *Prospectus Exemptions* must be accompanied by a fee of \$600.

(2) The issuer or selling security holder distributing rights under the offering circular must, within 30 days from the date of termination of the offering,

- (a) file a notice of proceeds, and
- (b) pay a fee equal to the amount, if any, by which 0.025% of the gross proceeds realized in Alberta by the issuer or selling security holder from the rights offering exceeds \$600.

(3) Paragraph (2)(b) does not apply to a reporting issuer that is not an investment fund distributing rights under an offering circular.

#### **Fees for amendments**

13. Every amendment to any of the following must be accompanied by a fee of \$250:

- (a) preliminary or pro forma prospectus;
- (b) prospectus.

#### **Fees for reports**

14. Every report filed with any of the following must be accompanied by a fee of \$100:

- (a) preliminary prospectus;
- (b) pro forma prospectus;
- (c) amendment to any of the documents referred to under section 11.

### **PART 5 REPORTING ISSUER PARTICIPATION FEES**

#### **Participation fee**

15. (1) At the time the annual financial statement by or on behalf of a reporting issuer for the purpose of annual continuous disclosure is filed, it must be accompanied by the following participation fee:

- (a) for a Class 1 reporting issuer or Class 2 reporting issuer, the participation fee in Appendix A based on the reporting issuer's capitalization, as determined in accordance with either section 20 or 21, for the previous financial year;
- (b) for a Class 3A reporting issuer, a participation fee of \$400;
- (c) for a Class 3B reporting issuer, the participation fee in Appendix B based on the reporting issuer's capitalization, as determined in accordance with section 20, for the previous financial year;

- (d) for an investment fund required to file an annual financial statement pursuant to National Instrument 81-106 *Investment Fund Continuous Disclosure* a participation fee of \$350.

(2) Despite subsection (1), a participation fee is not payable by a participant under this section if the participant became a reporting issuer in the period that begins immediately after the time that would otherwise be the end of the previous financial year in respect of the participation fee and ends at the time the participation fee would otherwise be required to be paid under subsection (1).

#### **Fees for late annual financial statements**

**16. (1)** In addition to the fee payable under subsection 15(1), if an annual financial statement required to be filed by a person or company is not filed within the period of time prescribed by Alberta securities laws, the reporting issuer must, concurrently with the filing of the annual financial statement, pay the Commission a late fee of \$100 for each day that elapses between the date the annual financial statement was required to be filed and the date on which the annual financial statement is filed.

(2) Despite subsection (1), the maximum late fee payable by a person or company as a result of the operation of this section is \$5000 per annual financial statement.

#### **Exemption for subsidiary entities**

**17. (1)** Subsection 15(1) does not apply to a reporting issuer that is a subsidiary if all of the following apply:

- (a) at the end of the subsidiary's previous financial year, the parent of the subsidiary was a reporting issuer;
- (b) the audited financial statements of the parent prepared in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* require the consolidation of the parent and the subsidiary;
- (c) the parent has paid a participation fee under paragraph 15(1)(a) calculated based on the capitalization of the parent for the previous financial year;
- (d) in the case of a parent that is a Class 1 reporting issuer, the capitalization of the parent for the previous financial year included the capitalization of the subsidiary as required under paragraph 20(c);
- (e) in the previous financial year either of the following occurred:
  - (i) the net assets and total revenues of the subsidiary represented more than 90% of the consolidated net assets and total revenues of the parent in the parent's previous financial year;

- (ii) the subsidiary was entitled to rely on an exemption or waiver from the requirements in subsections 4.1(1), 4.3(1), 5.1(1) or section 5.2, and section 6.1 of National Instrument 51-102 *Continuous Disclosure Obligations*.

(2) A reporting issuer referred to in subsection (1) must file a completed Form 13-501F6 *Subsidiary Exemption Notice* that contains a certification signed by an officer of the reporting issuer, at the time it files its annual financial statements for its previous financial year in accordance with Alberta securities law, or by the date on which its annual financial statements would have been required to be filed under Alberta securities law absent an exemption or waiver described in subparagraph (1)(e)(ii).

### **Participation fee estimate for Class 2 reporting issuers**

**18. (1)** If the annual financial statements of a Class 2 reporting issuer are not available by the date referred to in paragraph 15(1)(a) the Class 2 reporting issuer must, on that date,

- (a) file a completed Form 13-501F2 *Class 2 Reporting Issuers - Participation Fee* showing a good faith estimate of the information required to calculate its capitalization as at the end of the previous financial year, and
- (b) pay the participation fee shown in Appendix A opposite the estimated capitalization.

(2) A Class 2 reporting issuer that estimated its capitalization under subsection (1) must, when it files its annual financial statements for the previous financial year,

- (a) calculate its capitalization under section 21,
- (b) pay the participation fee shown in Appendix A opposite the capitalization, less the participation fee paid under subsection (1), and
- (c) file a completed Form 13-501F3 *Adjustment of Fee Payment for Class 2 Reporting Issuers* that contains a certification signed by an officer of the reporting issuer.

(3) If the amount paid by a reporting issuer under subsection (1) exceeds the participation fee calculated under subsection (2), the issuer is entitled to a refund from the Commission of the amount overpaid.

(4) A request for a refund under subsection (3) must be made to the Commission by the same date on which the form referred to in paragraph 2(c) is required to be filed.



**Filing report and certification**

**19. (1)** At the time that it pays the participation fee required by this Part,

- (a) a Class 1 reporting issuer and a Class 3B reporting issuer must file a completed Form 13-501F1 *Class 1 Reporting Issuers and Class 3B Reporting Issuers – Participation Fee*,
- (b) a Class 2 reporting issuer must file a completed Form 13-501F2 *Class 2 Reporting Issuers – Participation Fee*,
- (c) a Class 3A reporting issuer must file a completed Form 13-501F4 *Class 3A Reporting Issuers – Participation Fee*, and
- (d) An investment fund must file a completed Form 13-501F5 *Investment Fund – Participation Fee*.

**(2)** A form required to be filed under subsection (1) must contain a certification signed by an officer of the reporting issuer.

**Calculating capitalization for Class 1 reporting issuers and Class 3B reporting issuers**

**20.** The capitalization of a Class 1 reporting issuer or a Class 3B reporting issuer for the previous financial year is the total of all of the following:

- (a) for each class or series of the reporting issuer’s equity securities listed or quoted on a marketplace
  - (i) the sum of the market value of the securities listed or quoted on a marketplace at the end of the last trading day of each specified trading period in the previous financial year of the reporting issuer, calculated for each specified trading period as follows:

$$A \times B$$

in which,

“A” is equal to the closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace, and

“B” is equal to the number of securities in the class or series of such security outstanding at the end of the specified trading period

- (ii) divided by the number of specified trading periods in the reporting issuer’s previous financial year in which the security of the reporting issuer was listed or quoted on a marketplace at the end of the last trading day of a specified trading period;

- (b) the fair value of the outstanding debt securities of the reporting issuer at the end of the previous financial year that are
  - (i) listed or quoted on a marketplace,
  - (ii) traded over the counter, or
  - (iii) available for purchase or sale without regard to a statutory hold period;
- (c) the capitalization for the previous financial year of a subsidiary that is exempt under subsection 17(1), calculated in accordance with paragraphs (a) and (b), and excluding any securities of the subsidiary held by the parent that have been included in the capitalization of the parent for the previous financial year.

### **Calculating capitalization for Class 2 reporting issuers**

**21. (1)** The capitalization of a Class 2 reporting issuer for the previous financial year is the total of all of the following items, as shown in its audited statement of financial position as at the end of the previous financial year:

- (a) retained earnings or deficit;
- (b) contributed surplus;
- (c) share capital or owners' equity, options, warrants and preferred shares;
- (d) non-current borrowings, including the current portion;
- (e) finance leases, including the current portion;
- (f) non-controlling interest;
- (g) items classified on the statement of financial position as non-current liabilities, and not otherwise referred to in this subsection;
- (h) any other item forming part of equity not otherwise referred to in this subsection.

**(2)** Despite subsection (1), a reporting issuer may calculate its capitalization using unaudited annual financial statements if it is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

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

**Reliance on published information**

**22. (1)** In determining its capitalization, a reporting issuer may rely on information made available by a marketplace on which its securities trade.

**(2)** Despite subsection (1), if a reporting issuer reasonably believes that the information made available by a marketplace is incorrect, the issuer must make a good faith estimate of the information required.

**PART 6  
PARTICIPATION FEES FOR SPECIFIED REGULATED ENTITIES**

**Recognized exchange on which securities are traded**

**23.** A recognized exchange on which securities are traded must, no later than April 30 in each calendar year, pay the participation fee shown in Appendix C opposite the corresponding Canadian trading share of the exchange for the specified period.

**Recognized exchange on which derivatives are traded**

**24. (1)** If the Commission is the lead or co-lead regulator for a recognized exchange on which derivatives are traded, then the exchange must, no later than April 30 in each calendar year, pay the participation fee of \$15 000 for the specified period.

**(2)** If the Commission is not the lead or co-lead regulator for a recognized exchange on which derivatives are traded, then the exchange must, no later than April 30 in each calendar year, pay the participation fee of \$7500 for the specified period.

**Exchanges exempt from recognition under the Act**

**25.** A person or company that is exempted by the Commission from the application of section 62 of the *Securities Act* must, no later than April 30 in each calendar year, pay a participation fee of \$5000.

**Recognized quotation and trade reporting system**

**26.** A recognized quotation and trade reporting system must, no later than April 30 in each calendar year, pay the participation fee shown in Appendix C opposite the corresponding Canadian trading share of the quotation and trade reporting system for the specified period.

**Alternative trading system**

**27. (1)** An alternative trading system only for exchange-traded securities must, no later than April 30 in each calendar year, pay a participation fee of \$8500.

(2) An alternative trading system only for unlisted debt or securities lending must, no later than April 30 in each calendar year, pay a participation fee of \$4400.

(3) An alternative trading system not described in subsections (1) or (2) must, no later than April 30 in each calendar year, pay a participation fee of \$8500.

(4) If there are 2 or more alternative trading systems, each of which is related to each other and each of which trades different asset classes, then each alternative trading system must pay a participation fee as determined under subsection (1), (2) or (3).

**Recognized clearing agencies providing services in connection with trades in securities**

28. (1) A recognized clearing agency must, no later than April 30 in each calendar year, pay the aggregate of the participation fees set out in subsections (2) to (7) for each of the services that the clearing agency provides in the specified period in connection with trades in securities.

(2) A recognized clearing agency that provides matching services, which is the provision of facilities for comparing data respecting the terms of settlement of a trade or transaction, must pay a participation fee of \$5000.

(3) A recognized clearing agency that provides netting services, being the provision of facilities for the calculation of the mutual obligations of participants for the exchange of securities or money, must pay a participation fee of \$10 000.

(4) A recognized clearing agency that provides settlement services, which are services that ensure that securities are transferred finally and irrevocably from one participant to another in exchange for a corresponding transfer of money or *vice versa*, must pay a participation fee of \$10 000.

(5) A recognized clearing agency that acts as a central clearing counterparty by providing novation services, if the Commission does not place reliance on another regulator for direct oversight, must pay a participation fee of \$75 000.

(6) A recognized clearing agency that acts as a central clearing counterparty by providing novation services, if the Commission places reliance on another regulator for direct oversight, must pay a participation fee of \$35 000.

(7) A recognized clearing agency that provides depository services, which is the provision of centralized facilities as a depository for securities, must pay a participation fee of \$10 000.

**Recognized clearing agencies providing services in connection with trades in derivatives**

29. A clearing agency that provides services in the specified period in connection with trades in derivatives must, no later than April 30 in each calendar year, pay a participation fee of \$15 000.

**Clearing agencies exempt from recognition under the Act**

**30.** Each clearing agency that is exempted by the Commission from the application of section 67 of the *Securities Act* must, no later than April 30 in each calendar year, pay a participation fee of \$5000.

**Recognized trade repositories**

**31.** Each recognized trade repository under subsection 67.3(1) of the *Securities Act* must, no later than April 30 in each calendar year, pay a participation fee of \$15 000.

**Participation fee on recognition or exemption**

**32. (1)** A person or company must, on the date it first becomes a specified regulated entity, pay a participation fee of

$$A \times B \div C$$

in which

“A” is

- (a) in the case of a recognized exchange, a recognized quotation and trade reporting system or an alternative trading system, \$15 000,
- (b) in the case of an exchange exempt from recognition under the *Securities Act*, \$5000,
- (c) in the case of a recognized clearing agency, the aggregate of the participation fees set out in sections 28(2) through (7) for the services that the clearing agency is to provide in the specified period in connection with trades in securities,
- (d) in the case of a clearing agency exempt from recognition under the Act, \$5000, or
- (e) in the case of a recognized trade repository, \$15 000,

“B” is the number of complete months remaining from the month in which the person or company first became a specified regulated entity until March 31, and

“C” is 12.

**(2)** The fee required to be paid under subsection (1) is in lieu of the fees required to be paid by the person or company in the same specified period under sections 23 through 31.

**Form**

**33.** A payment made under sections 23 through 32 must be accompanied by a completed Form 13-501F7 *Specified Regulated Entities – Participation Fee*.

**Late fee**

**34. (1)** In addition to the fee payable under this Part, if a person or company is late paying the participation fee, the person or company must pay an additional late fee of \$100 for each day that elapses between the date the participation fee was required to be paid and the date on which the participation fee is paid.

**(2)** Despite subsection (1), the maximum late fee payable by a person or company as a result of the operation of this section is \$5000 per calendar year.

**PART 7  
MARKET REGULATION RECOGNITION AND EXEMPTIONS**

**Recognition or exemption of an exchange**

**35. (1)** An application for recognition as an exchange under section 62 of the *Securities Act* must be accompanied by a fee of \$55 000.

**(2)** An application for exemption from the recognition as an exchange under section 62 of the Act must be accompanied by a fee of \$41 500.

**Recognition or exemption of a clearing agency**

**36. (1)** An application for recognition as a clearing agency under section 67 of the *Securities Act* must be accompanied by a fee of \$55 000.

**(2)** An application for exemption from the recognition as a clearing agency under section 67 of the Act must be accompanied by a fee of \$41 500.

**Merger, acquisition, reorganization or restructuring**

**37.** In addition to the fees required to be paid pursuant to any of sections 35 or 36, each application that reflects any of the following circumstances must be accompanied by a fee of \$50 000:

- (a) a merger of an exchange or clearing agency;
- (b) an acquisition of a major part of the assets of an exchange or clearing agency;
- (c) the introduction of a new business that would significantly change the risk profile of an exchange or clearing agency;

- (d) a major reorganization or restructuring of an exchange or clearing agency.

**Alternative trading system**

**38.** A new alternative trading system must pay a fee of \$27 500 at the time it files Form 21-101F2 *Initial Operation Report – Alternative Trading System* for review in accordance with National Instrument 21-101 *Marketplace Operation*.

**Trade repository**

**39.** An application for recognition as a trade repository under subsection 67.3(1) of the *Securities Act* must be accompanied by a fee of \$41 500.

**PART 8  
MISCELLANEOUS FEES**

**Take-over bid and issuer bid circular**

**40. (1)** Every take-over bid or issuer bid circular filed must be accompanied by a fee of \$1200.

**(2)** Every directors' circular or individual director's or officer's circular filed must be accompanied by a fee of \$600.

**(3)** Every notice of change or variation in respect of a take-over bid circular or issuer bid circular filed must be accompanied by a fee of \$300.

**Recognition or renewal of recognition as an exempt purchaser**

**41.** Every application to the Commission for recognition as an exempt purchaser or renewal of recognition as an exempt purchaser must be accompanied by a fee of \$500.

**Pre-filing**

**42. (1)** Each pre-filing related to the items described in sections 35, 36, 37, 38, 39 and any other pre-filing must be accompanied by a fee equal to 1/2 of the fee that would have been payable if the corresponding formal filing had proceeded at the same time as the pre-filing.

**(2)** A fee paid pursuant to subsection (1) is non-refundable.

**(3)** Despite subsection (2), a fee paid pursuant to subsection (1) will be credited against the applicable fee payable if and when a person or company proceeds with the corresponding formal filing.

**Examination in accordance with section 58**

**43. (1)** The fee for an examination by a person appointed under section 58 of the *Securities Act* is \$1000 per day per person plus any reasonable expenses incurred in connection with the examination.

**(2)** Despite subsection (1), in the case of a limited or minor examination, the fee prescribed under subsection (1) may be reduced to reflect the cost of the examination.

**Notice of appeal**

**44.** Every notice of appeal to the Commission under subsection 36(1) of the *Securities Act* must be accompanied by a fee of \$300.

**Application to the Commission**

**45. (1)** Every application to the Commission under section 144 of the *Securities Act* must be accompanied by a fee of \$750.

**(2)** Every application to the Commission under section 179 of the Act must be accompanied by a fee of \$750.

**(3)** Every application to the Commission under the *Business Corporations Act* must be accompanied by a fee of \$300.

**(4)** Any application to the Commission for which a fee is not specifically provided in this Rule must be accompanied by a fee of \$750.

**Application or request to the Executive Director**

**46.** Every application or request to the Executive Director for which a fee is not specifically provided in this Rule must be accompanied by a fee of \$750.

**Certified statement**

**47.** No fee is payable for certifying a statement referred to in section 218 of the *Securities Act*.

**Photocopy**

**48.** The fee for photocopying is \$0.50 per page photocopied.

**Microfilm search**

**49.** The fee for a microfilm search is \$10 per person or company.



**Late fee for insider report**

**50. (1)** A person or company must pay the Commission a late fee of \$50 for each day that elapses between the date the report was required to be filed and the date on which the report is filed if

- (a) an insider report required to be filed by a person or company pursuant to National Instrument 55-104 *Insider Reporting Requirements and Exemptions* is not filed within the period of time prescribed by Alberta securities laws, and
- (b) the Commission is the principal regulator under Multilateral Instrument 11-102 *Passport System*.

**(2)** Despite subsection (1), the maximum late fee payable by a person or company as a result of the operation of this section is \$1000 per issuer per calendar year.

**SEDAR and NRD fees**

**51.** Multilateral Instrument 13-102 *System Fees for SEDAR and NRD* applies in respect of fees for each of the following:

- (a) System for Electronic Document Analysis and Retrieval (SEDAR);
- (b) National Registration Database (NRD).

**Currency conversion**

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

**PART 9  
WHEN THIS INSTRUMENT COMES INTO FORCE**

**Effective date**

**53.** This instrument comes into force on December 1, 2016.

**Appendix A**  
**to**  
**ASC Rule 13-501 Fees**  
**Participation fees for Class 1 reporting issuers or Class 2 reporting issuers**  
**(Paragraph 15(1)(a))**

<b>Capitalization for the Previous Fiscal Year</b>	<b>Participation Fee</b>
under \$10 million	\$400
\$10 million to under \$25 million	\$500
\$25 million to under \$50 million	\$1200
\$50 million to under \$100 million	\$3000
\$100 million to under \$250 million	\$6500
\$250 million to under \$500 million	\$14 000
\$500 million to under \$1 billion	\$19 000
\$1 billion to under \$5 billion	\$28 000
\$5 billion to under \$10 billion	\$36 500
\$10 billion to under \$25 billion	\$42 500
\$25 billion and over	\$48 000

INCLUDES COMMENT LETTERS

**Appendix B**  
**to**  
**ASC Rule 13-501 Fees**  
**Participation fees for Class 3B reporting issuers**  
**(Paragraph 15(1)(c))**

<b>Capitalization for the Previous Fiscal Year</b>	<b>Participation Fee</b>
under \$10 million	\$400
\$10 million to under \$25 million	\$500
\$25 million to under \$50 million	\$600
\$50 million to under \$100 million	\$1000
\$100 million to under \$250 million	\$2000
\$250 million to under \$500 million	\$4500
\$500 million to under \$1 billion	\$6000
\$1 billion to under \$5 billion	\$9000
\$5 billion to under \$10 billion	\$11 500
\$10 billion to under \$25 billion	\$13 500
\$25 billion and over	\$15 500

INCLUDES COMMENT LETTERS

**Appendix C**  
**to**  
**ASC Rule 13-501 Fees**  
**Participation fees for Specified Regulated Entities**  
**(Part 6)**

<b>Specified Regulated Entity (Column A)</b>	<b>Participation Fee (Column B)</b>
<b>Recognized exchange and recognized quotation and trade reporting system</b>	
A person or company with a Canadian trading share for the specified period of up to 5%	\$15 000
A person or company with a Canadian trading share for the specified period of 5% to up to 15%	\$25 000
A person or company with a Canadian trading share for the specified period of 15% to up to 25%	\$67 500
A person or company with a Canadian trading share for the specified period of 25% to up to 50%	\$137 500
A person or company with a Canadian trading share for the specified period of 50% to up to 75%	\$200 000
A person or company with a Canadian trading share for the specified period of 75% or more	\$250 000

INCLUDES COMMENT LETTERS

**FORM 13-501F1**  
**CLASS 1 REPORTING ISSUERS AND CLASS 3B REPORTING ISSUERS –**  
**PARTICIPATION FEE**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, an officer of the reporting issuer noted below have examined this Form 13-501F1 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Reporting Issuer Name:** \_\_\_\_\_

**End date of previous financial year:** \_\_\_\_\_

**Type of Reporting Issuer:**             **Class 1 reporting issuer**             **Class 3B reporting issuer**

**Highest Trading Marketplace:** \_\_\_\_\_

**Market value of listed or quoted equity securities:**

**Equity Symbol**

**1st Specified Trading Period** (dd/mm/yy)            \_\_\_\_\_ to \_\_\_\_\_

Closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace

\$ \_\_\_\_\_  
(i)

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Number of securities in the class or series of such security outstanding at the end of the last trading day of the specified trading period

\_\_\_\_\_ (ii)

Market value of class or series

(i) x (ii) \$ \_\_\_\_\_ (A)

**2nd Specified Trading Period** (dd/mm/yy)

\_\_\_\_\_ to \_\_\_\_\_

Closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace

\$ \_\_\_\_\_ (iii)

Number of securities in the class or series of such security outstanding at the end of the last trading day of the specified trading period

\$ \_\_\_\_\_ (iv)

Market value of class or series

(iii) x (iv) \$ \_\_\_\_\_ (B)

**3rd Specified Trading Period** (dd/mm/yy)

\_\_\_\_\_ to \_\_\_\_\_

Closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace

\$ \_\_\_\_\_ (v)

Number of securities in the class or series of such security outstanding at the end of the last trading day of the specified trading period

\$ \_\_\_\_\_ (vi)

Market value of class or series

(v) x (vi) \$ \_\_\_\_\_ (C)

**4th Specified Trading Period** (dd/mm/yy)

\_\_\_\_\_ to \_\_\_\_\_

Closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace

\$ \_\_\_\_\_  
(vii)

Number of securities in the class or series of such security outstanding at the end of the last trading day of the specified trading period

\$ \_\_\_\_\_  
(viii)

Market value of class or series

(vii) x (viii) \$ \_\_\_\_\_  
(D)

**5th Specified Trading Period** (dd/mm/yy)

\_\_\_\_\_ to \_\_\_\_\_

Closing price of the security in the class or series on the last trading day of the specified trading period in which such security was listed or quoted on the highest trading marketplace

\$ \_\_\_\_\_  
(ix)

Number of securities in the class or series of such security outstanding at the end of the last trading day of the specified trading period

\$ \_\_\_\_\_  
(x)

Market value of class or series

(ix) x (x) \$ \_\_\_\_\_  
(E)

**Average Market Value of Class or Series** (Calculate the simple average of the market value of the class or series of security for each applicable specified trading period (i.e. A through E above))

\$ \_\_\_\_\_  
(1)

(Repeat the above calculation for each other class or series of equity securities of the reporting issuer (and a subsidiary, if applicable) that was listed or quoted on a marketplace at the end of the previous financial year)

**Fair value of outstanding debt securities:**

(Provide details of how value was determined)

\$ \_\_\_\_\_  
(2)

**Capitalization for the previous financial year**

(1) + (2)

\$ \_\_\_\_\_

**Participation Fee**

\$ \_\_\_\_\_

**Late Fee, if applicable**

\$ \_\_\_\_\_

**Total Fee Payable**

(Participation Fee plus Late Fee)

\$ \_\_\_\_\_



**FORM 13-501F2**  
**CLASS 2 REPORTING ISSUERS – PARTICIPATION FEE**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, an officer of the reporting issuer noted below have examined this Form 13-501F2 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

\_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**Reporting Issuer Name:** \_\_\_\_\_

**End date of previous financial year:** \_\_\_\_\_

Financial Statement Values:

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

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

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INCLUDES COMMENT LETTERS

**Capitalization for the previous financial year**  
(Add items (A) through (H)) \$ \_\_\_\_\_

**Participation Fee** \$ \_\_\_\_\_

**Late Fee, if applicable** \$ \_\_\_\_\_

**Total Fee Payable**  
(Participation Fee plus Late Fee) \$ \_\_\_\_\_

**FORM 13-501F3**  
**ADJUSTMENT OF FEE PAYMENT FOR CLASS 2 REPORTING ISSUERS**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, an officer of the reporting issuer noted below have examined this Form 13-501F3 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Title:

**Reporting Issuer Name:** \_\_\_\_\_

**Financial year end date used to calculate capitalization:** \_\_\_\_\_

State the amount of participation fee paid under paragraph 15(1)(a) of ASC Rule 13-501 *Fees*: \$ \_\_\_\_\_ (i)

Show calculation of actual capitalization based on audited financial statements:

Financial Statement Values:

Retained earnings or deficit \$ \_\_\_\_\_ (A)

Contributed surplus \$ \_\_\_\_\_ (B)

Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes) \$ \_\_\_\_\_ (C)

Non-current borrowings (including the current portion) \$ \_\_\_\_\_ (D)

Finance leases (including the current portion) \$ \_\_\_\_\_ (E)

Non-controlling interest \$ \_\_\_\_\_ (F)

Items classified on the statement of financial position as non-current liabilities (and not otherwise listed above) \$ \_\_\_\_\_ (G)

Any other item forming part of equity and not set out specifically above \$ \_\_\_\_\_ (H)

INCLUDES COMMENT LETTERS

INCLUDES COMMENT LETTERS

**Capitalization**

(Add items (A) through (H))

\$ \_\_\_\_\_

**Participation Fee**

\$ \_\_\_\_\_ (ii)

**Refund due (Balance owing)**

(Indicate the difference between (i) and (ii) and enter nil if no difference)

(i) -- (ii) =

\$ \_\_\_\_\_

**FORM 13-501F4**  
**CLASS 3A REPORTING ISSUERS – PARTICIPATION FEE**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, an officer of the reporting issuer noted below have examined this Form 13-501F4 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Date:

Title:

**Reporting Issuer Name:** \_\_\_\_\_

**Financial year end date:** \_\_\_\_\_

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

(a) had no securities listed or quoted on any marketplace at the end of its previous financial year, or

(b) had securities listed or quoted on a marketplace at the end of its previous financial year and all of the following apply:

- (i) at the end of its previous financial year, securities registered in the names of persons or companies resident in Alberta represented less than 1% of the market value of all of the reporting issuer’s outstanding securities for which it or its transfer agent or registrar maintains a list of registered owners;
- (ii) the reporting issuer reasonably believes that, at the end of its previous financial year, securities beneficially owned by persons or companies resident in Alberta represented less than 1% of the market value of all its outstanding securities;
- (iii) the reporting issuer reasonably believes that none of its securities traded on a marketplace in Canada during its previous financial year;

INCLUDES COMMENT LETTERS

- (iv) the reporting issuer has not issued any of its securities in Alberta in the last 5 years, other than
  - (A) to its employees or to employees of one or more of its subsidiaries, or
  - (B) to a person or company exercising a right previously granted by the reporting issuer or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration;

<b>Participation Fee</b>	\$400
<b>Late Fee, if applicable</b>	\$ _____
<b>Total Fee Payable</b>	
(Participation Fee plus Late Fee)	\$ _____

**FORM 13-501F5**  
**INVESTMENT FUND – PARTICIPATION FEE**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, a manager of the investment fund noted below have examined this Form 13-501F5 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date:

**Investment Fund Name:** \_\_\_\_\_

**Financial year end date:** \_\_\_\_\_

The investment fund is required to file an annual financial statement pursuant to National Instrument 81-106 *Investment Fund Continuous Disclosure*.

<b>Participation Fee</b>	\$350
<b>Late Fee, if applicable</b>	\$ _____
<b>Total Fee Payable</b>	
(Participation Fee plus Late Fee)	\$ _____

INCLUDES COMMENT LETTERS

**FORM 13-501F6**  
**SUBSIDIARY EXEMPTION NOTICE**

**MANAGEMENT CERTIFICATION**

I, \_\_\_\_\_, an officer of the subsidiary noted below have examined this Form 13-501F6 (the **Form**) being submitted hereunder to the Alberta Securities Commission and certify that to my knowledge, having exercised reasonable diligence, the information provided in the Form is complete and accurate.

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date:

**Name of Subsidiary:** \_\_\_\_\_

**Name of Parent:** \_\_\_\_\_

**End Date of Subsidiary's Previous Financial Year:** \_\_\_\_\_

The reporting issuer (subsidiary) meets the following criteria set out under subsection 17(1) of ASC Rule 13-501 *Fees*:

- (a) at the end of the subsidiary's previous financial year, a parent of the subsidiary was a reporting issuer;
- (b) the audited financial statements of the parent prepared in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Standards* require the consolidation of the parent and the subsidiary;
- (c) the parent has paid a participation fee under subsection 15(1) calculated based on the capitalization of the parent for its previous financial year;
- (d) in the case of a parent that is a Class 1 reporting issuer, the capitalization of the parent for its previous financial year included the capitalization of the subsidiary as required under paragraph 20(c);
- (e) in its previous financial year,
  - (i) the net assets and total revenues of the subsidiary represented more than 90% of the consolidated net assets and total revenues of the parent for the parent's previous financial year, or
  - (ii) the subsidiary was entitled to rely on an exemption or waiver from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of National Instrument 51-102 *Continuous Disclosure Obligations*.



If paragraph e(i) above applies, complete the following table:

	<b>Net Assets for previous financial year</b>	<b>Total Revenues for previous financial year</b>	
Reporting Issuer (Subsidiary)	\$ _____	\$ _____	(A)
Reporting Issuer (Parent)	\$ _____	\$ _____	(B)
Percentage (A/B)	_____ %	_____ %	

INCLUDES COMMENT LETTERS

**FORM 13-501F7**  
**SPECIFIED REGULATED ENTITIES – PARTICIPATION FEE**

**Name of Specified Regulated Entity:** \_\_\_\_\_

**Applicable Calendar Year:** \_\_\_\_\_ (2016 or later)

**Type of Specified Regulated Entity: (check one)**

- Recognized exchange or recognized quotation and trade reporting system
- Alternate trading system
- Recognized clearing agency
- Exempt exchange, exempt clearing agency or designated trade repository

**(1) Participation Fee for applicable calendar year -- Recognized exchange or recognized quotation and trade reporting system on which securities are traded**

Filer should enter their Canadian trading share for the specified period below:

Canadian Trading Share Description	_____ % (To be Entered by Filer)
Line 1: the share in the specified period of the total dollar values of trades of exchange-traded securities	
Line 2: the share in the specified period of the total trading volume of exchange-traded securities	
Line 3: the share in the specified period of the total number of trades of exchange-traded securities	
Line 4: Average of Lines 1, 2 & 3 above	
<b>Line 5: Filer is required to pay the amount from the corresponding column in Appendix C based on the average calculated on Line 4 above:</b>	<b>\$_____</b>

INCLUDES COMMENT LETTERS

INCLUDES COMMENT LETTERS

**(2) Participation Fee for applicable calendar year -- Recognized exchange on which derivatives are traded**

Line 6: If operating a recognized exchange on which derivatives are traded and for which the Commission is the lead or co-lead regulator, enter \$15 000	\$ _____
Line 7: If operating a recognized exchange on which derivatives are traded and for which the Commission is not the lead or co-lead regulator, enter \$7500	\$ _____

**(3) Participation Fee for applicable calendar year -- Alternative trading system**

Line 8: If operating an alternative trading system for only exchange-traded securities, enter \$8500	\$ _____
Line 9: If operating an alternative trading system for only unlisted debt or securities lending, enter \$4375	\$ _____
Line 10: If operating an alternative trading system not described in Lines 8 or 9, enter \$8500	\$ _____

**(4) Participation Fee for applicable calendar year - Recognized clearing agencies providing services in connection with trades in securities**

For services offered in Alberta Market the filer should enter the corresponding amount in the Fees Payable Column:

Services	Fee Payable
Line 11: Matching services, enter \$5000	\$ _____
Line 12: Netting services, enter \$10 000	\$ _____
Line 13: Settlement services, enter \$10 000	\$ _____
Line 14: Novation services, if the Commission does not place reliance on another regulator for direct oversight, enter \$75 000	\$ _____

INCLUDES COMMENT LETTERS

Line 15: Novation services, if the Commission places reliance on another regulator for direct oversight. Enter \$35 000	\$ _____
Line 16: Depository services, enter \$10 000	\$ _____
<b>Line 17: Total Participation Fee Payable (Sum of Lines 11-16):</b>	\$ _____

**(5) Participation Fee for applicable calendar year - Recognized clearing agencies providing services in connection with trades in derivatives**

Line 18: If operating a recognized clearing agency providing services in connection with trades in derivatives, enter \$15 000	\$ _____
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**(6) Participation Fee for applicable calendar year for other types of specified regulated entities**

Line 19: Filer is required to pay the amount below, as applicable.	
(a) If operating as an exempt exchange or exempt clearing agency, enter \$5000	\$ _____
(b) If operating as a Designated Trade Repository, enter \$15 000	\$ _____

**(7) Prorated Participation Fee**

Line 20: If this is the first time paying a participation fee as a specified regulated entity, prorate the amount	\$ _____
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**(8) Late Fee**

Line 21: Late Fee	\$ _____
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**(9) Total Fee Payable**

Line 22: Aggregate Participant Fee from Sections (1), (2), (3), (4), (5), and (6)	\$ _____
<b>Line 23: Total Fee Payable is amount from Line 20 or Line 22 plus amount from Line 21:</b>	\$ _____

**Annex B**  
**List of commenters on ASC Notice and Request for Comment Proposed ASC Rule 13-501 Fees**

	<b>Commenter</b>	<b>Date</b>
1.	TMX Group Ltd.	January 18, 2016
2.	Fidelity Investments Canada ULC	January 18, 2016
3.	ICE Futures Canada Inc. and ICE Clear Canada Inc.	January 18, 2016
4.	ICE Trade Vault LLC	January 18, 2016
5.	Stikeman Elliot LLP	January 18, 2016

Annex C

Summary of comment letters and responses to ASC Notice and Request for Comment  
Proposed New Rule 13-501 Fees

No.	Subject	Summarized Comment	Response
<b>General</b>			
1.	Recognition of need for fee increase	Two commenters recognized that the ASC's fees have remained static for 10 years and understood the ASC's need to review and update its fees in order to continue to execute its mandate.	We thank the commenters for their support.
2.	Justification for Fee Increase	Some commenters expressed concern that there was a lack of information to explain how the increased fees related to the particular services received by a market participant or effort expended by the ASC in relation to a specific matter (i.e. transaction, application, or filing fee).	We thank the commenters for their input.  The ASC's fee model establishes individual fees for certain activities (i.e. reviewing filings) as well as fees that take into account a market participant's access to the Alberta capital markets. However, the ASC does not base its fees on the costs of a specific transaction. Rather, the ASC's funding requirements are modelled on a total cost and revenue basis. Many ASC processes, such as enforcement actions, policy development and investor protection initiatives, have no related fees but are required to maintain the regulatory system and fulfill our mandate. As a result, specific fees paid by market participants are not based on the cost of a particular transaction.

<p>3.</p>	<p>Comment Process</p>	<p>Two commenters would have liked the Notice to include details about the specific alternative fee models the ASC considered for comparison. One commenter also recommended consulting with advisory committees in advance of proposing a new rule that includes significant changes.</p>	<p>We thank the commenters for their input.</p> <p>The ASC undertook an extensive review process prior to drafting proposed ASC Rule 13-501 (“Proposed Rule”). The ASC considered various fee options from other Canadian jurisdictions and analyzed how these would satisfy both the ASC’s needs as well as those of the Alberta capital markets.</p> <p>The ASC consulted with its Financial Advisory Committee which is made up of independent market participants and audit firms. The ASC also consulted with a selection of reporting issuers of varying sizes.</p> <p>The Proposed Rule is the end result of that analysis and consultation. The ASC also extended its timeframe for comments from 30 days to 75 days to give the public time to comment on the Proposed Rule.</p>
<p>4.</p>	<p>Electronic Filing of Forms</p>	<p>One commenter appreciates that the forms in the Proposed Rule are substantially similar to the forms in OSC Rule 13-502 because this reduces the administrative burden on reporting issuers.</p> <p>Regulatory obligations could further be reduced if reporting issuers could electronically file a single consolidated form with both the ASC and OSC.</p>	<p>We thank the commenter for their support.</p> <p>The ASC notes this comment for future consideration should it undertake a broader review its approach to electronic filing of forms.</p>

Increases to existing fees			
5.	Individual Registrants / Investment Funds	<p>One commenter expressed concern that the increase in individual registration fees from \$300 to \$400, combined with the increased annual fee for investment funds from \$300 to \$400, makes the fees paid to the ASC disproportionate to those paid to other securities commissions and questioned whether the increases were supported by any additional benefit or service.</p>	<p>We thank the commenter for their input.</p> <p>With respect to the annual fee for investment funds, the increase is being reduced by \$50, for a new fee of \$350. Please see comment #6, for further details about this change.</p> <p>These are the first increases in 10 years for each fee. While investment funds may be affected by both fees, they involve different activities and different aspects of the ASC's operations. Please see our response to comment #2 which explains the ASC's approach to setting fees generally.</p>
6.	Reporting Issuer Fees	<p>Two commenters expressed support for the move to a participation model where a reporting issuer's fees are determined based on its market capitalization rather than a flat fee.</p> <p>One commenter expressed support for the exemption granted to investment funds from the participation fee model.</p> <p>One commenter expressed concern about the fees that will be charged to larger issuers under the Proposed Rule and questioned whether the increase was necessary on a permanent basis. The commenter suggested a gradual roll out of fee increases.</p>	<p>We thank the commenters for their support.</p> <p>Since the Proposed Rule was published for comment, the ASC's projected budgets have undergone revisions. As such, the revenues required to sustain the ASC's operations have decreased. Taking into account the current economic climate and reason for implementing the fee increases, the ASC considers it appropriate to also reduce the fees being levied under the participation model for reporting issuers by approximately 17% and the fee for investment funds is reduced by \$50.</p>



7.	Late filing fees	<p>One commenter suggested that the ASC should coordinate with the OSC to permit fees for late filings being payable to only a firm’s principal regulator and not each securities commission.</p> <p>One commenter noted that late filing fees should also be calculated based on business days to harmonize the ASC’s approach with that of the OSC.</p> <p>One commenter also noted that the ASC’s approach to late filing fees for Form 45-106F1 filings caps late filing fees at \$1000 per report. this could result in late filing fees in excess of the OSC’s \$5,000 cap. The example given was of an unrepresented issuer who is frequently in the market and unaware of the obligation to file reports under 45-106.</p>	<p>We thank the commenter for their input.</p> <p>Late filing fees act as a deterrent for non-compliance. The ASC considers that it is appropriate for market participants to pay late filing fees in each jurisdiction where they have filing obligations if they are late with those filings. We consider that these fees are avoidable.</p> <p>At present both calendar and business days are used in the ASC’s various rules. The ASC notes this comment for future consideration should it undertake a broader review of its approach to using business and calendar days in its Rules.</p> <p>The ASC carefully considered whether late filing fees should be capped on a per report or per issuer basis. The ASC determined that a per report basis (with a substantially lower cap of \$1000 versus \$5000) would be more appropriate. While the ASC recognizes that this could result in higher late filing fees for an issuer who is late on more than five reports, the ASC considers that situation to be within the issuer’s control and completely avoidable. Issuers have a responsibility to understand and comply with their regulatory obligations, including filings.</p>
<b>New Fees</b>			
8.	Unregistered exempt international firms	<p>One commenter was supportive of the simplified fee model adopted by the ASC for firms relying on the international dealer and international advisor exemptions in comparison with the OSC’s fee model.</p>	<p>We thank the commenter for their input.</p> <p>There are advantages and disadvantages to adopting a fixed fee model versus a participation fee model which uses a firm’s revenue to set fees. It is not viable for the ASC to set the fixed fee at the lowest fee level of the OSC’s</p>

		There was concern that the ASC's fees may be excessive when compared with the OSC's for firms with certain annual revenues. Firms with less than \$500,000 in annual revenue will pay more under the ASC's Proposed Rule and the ASC may consider addressing this either through transition provisions or relief for those firms.	participation model. The ASC will be maintaining the proposed fixed fees.
9.	Registrant Acquisitions	One commenter would like to see the fee payable under section 7 of the Proposed Rule only be payable if the ASC is the principal regulator of either the acquirer registrant or the target registrant.	We thank the commenter for their input. The fee under section 7 is only intended to be payable if the ASC is the principal regulator of either the acquirer registrant or the target registrant. We have amended the Proposed Rule to clarify this point.
10.	Specified Regulated Entities – General	Several commenters were supportive of the fact that the ASC proposed fees that are generally half of the amount of the fees charged by the OSC for the same activities.	We thank the commenters for their support.
11.	Specified Regulated Entities – Fees for Lead and Co-Lead Regulated Entities	One commenter noted that the fees should be lower when the ASC is a co-lead regulator to take into account the fees paid to the co-lead regulator and the efficiencies achieved through co-lead regulation.	We thank the commenter for their input. Circumstances involving the ASC as a co-lead regulator for a specified regulated entity are currently rare and the ASC recognizes that such situations involve unique considerations. The ASC considers that such a situation may warrant a separate review and it may be appropriate for the ASC to grant exemptive relief depending on the specific circumstances involved.

12.	Specified Regulated Entities – Derivatives exchanges and clearing houses	<p>One commenter was supportive of the ASC’s decision to treat derivatives exchanges and clearing houses differently than the equities exchanges and cash clearing houses.</p> <p>One commenter noted that the ASC is setting new fees for activities not normally covered and this could unfairly restrict competition from smaller derivative exchanges and clearing agencies.</p>	<p>We thank the commenter for their input.</p> <p>The ASC has not revised its fees in 10 years. During that period the derivatives markets have evolved significantly and become more complex as have the need for regulation and oversight. The ASC considers that it is now appropriate to begin levying fees in this area. The ASC will continue to monitor this area and the fees collected for possible review in the future.</p>
13.	Exchanges and Clearing Agencies – Exemptions from recognition	<p>One commenter expressed concern with the level of fees for exempt exchanges and clearing agencies because these entities only have a limited or indirect connection to Alberta and the ASC would have limited oversight costs as it would not be the principal regulator.</p> <p>Two commenters would have liked to see different fees for exchanges and clearing agencies recognized in non-Canadian jurisdictions compared to an entity that is recognized by a member of the Canadian Securities Administrators. The rationale was that further assessment and review would be warranted when dealing with an exemption application from an entity regulated by a non-Canadian jurisdiction.</p>	<p>We thank the commenters for their input.</p> <p>Please see our response to comment #2 which explains the ASC’s approach to setting fees generally.</p> <p>The ASC has carefully considered these comments but believes the current fee structure in the Proposed Rule for recognition and exemptions is appropriate and it will be maintained.</p> <p>While there is a different level of oversight for exempt entities compared to recognized entities, oversight activities do occur and we consider that a fee is appropriate.</p> <p>We consider that comments dealing with the scope of review currently required under securities laws to be outside the scope of the Proposed Rule, as those comments deal with the substantive elements of the recognition and exemption process. We note these comments for future</p>

		<p>One commenter also noted that the level of review and ongoing oversight for exchanges and clearing agencies recognized by other Canadian jurisdictions is unnecessary and ought to be reduced.</p> <p>One commenter noted that the ASC should adopt the approach of the United States and European Union and not charge any fees to foreign marketplaces and clearing agencies seeking exemptive relief. If the ASC must adopt a fee, it ought to grant exemptive relief without lengthy and detailed application processes if a comparable regulatory regime exists in a foreign jurisdiction.</p> <p>One commenter noted that the proposed fees for foreign exchanges and clearing agencies may result in foreign regulators imposing similar fee requirements which may harm Albertan companies seeking to access those markets.</p>	<p>consideration.</p> <p>Individual fee comparisons with foreign jurisdictions are difficult because each market is different and has its own unique features including different funding models.</p> <p>The ASC will continue to monitor this area and the fees collected for possible review in the future.</p>
<p>14.</p>	<p>Specified Regulated Entities – Trade Repositories</p>	<p>One commenter considered the application fee and annual fee for trade repositories to be very high. This could increase the burden and costs for those market participants.</p> <p>The concern with the annual fee is that it is not</p>	<p>We thank the commenter for their input. The ASC has carefully considered these comments but believes the current fee structure in the Proposed Rule for trade repositories is appropriate and it will be maintained.</p> <p>Please see our response to comment #2 which explains the ASC’s approach to setting fees generally.</p>

		<p>aligned with the ASC’s actual costs to register previously recognized trade repositories in other Canadian jurisdictions. The ASC also does not have a prior history of overseeing trade repositories. The commenter noted that there are significant expenses when operating a trade repository and the proposed annual fee could jeopardize the viability of certain trade repositories in Alberta and require the costs to be passed on to the trade repositories’ customers.</p>	<p>The ASC will continue to monitor this area and the fees collected for possible review in the future.</p>
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BY ELECTRONIC MAIL: [jennifer.ronalds@asc.ca](mailto:jennifer.ronalds@asc.ca)

January 18, 2016

Alberta Securities Commission

Jennifer Ronalds  
Legal Counsel, Office of the General Counsel  
403-355-9047  
[jennifer.ronalds@asc.ca](mailto:jennifer.ronalds@asc.ca)

Dear Sirs/Mesdames:

**RE: Alberta Securities Commission Proposed Rule 13-501 Fees (the “Proposed Rule”)**

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Thank you for the opportunity to provide comments to the Alberta Securities Commission (“ASC”) on the Proposed Rule.

Fidelity Investments Canada ULC (“Fidelity”, “we” or “us”) is the 4<sup>th</sup> largest fund management company in Canada and part of the Fidelity Investments organization in Boston, one of the world’s largest financial services providers. Fidelity manages over \$110 billion in mutual funds and institutional assets and offers more than 200 mutual funds and pooled funds to Canadian investors.

The ASC’s mandate of fostering fair and efficient capital markets in Alberta and protecting investors is important and one that Fidelity supports. Fidelity also understands that the ASC requires sufficient revenues in order to fulfill its goals and that the ASC aims to create a fee structure that does not excessively burden market participants.

### **COMMENTS ON THE PROPOSED RULE**

We believe that the change from a fixed fee model to a participation fee model based on market capitalization, along with the exemption provided for investment funds to allow them to continue to pay a fixed fee, will create a better balance in the relative fee burden between investment funds and other securities issuers.

However, the increase in the fixed fees for investment funds required to file annual financial statements and for registration further increases the costs to the investment funds industry and makes the fees paid to the ASC disproportionately higher than the fees paid to the securities commissions in the other provinces and territories.

For example, in 2015, Fidelity paid the ASC \$300 per fund for a total of \$59,700 for its funds’ annual financial statements and \$300 per individual for a total of \$7,800 for individual registration. Under the Proposed Rule, and based on the current number of funds and individual registrants in 2015, Fidelity would be required to pay the ASC \$400

per fund for a total of \$79,600 for its funds' annual financial statements and \$400 per individual for a total of \$10,400 for individual registration, representing an aggregate increase in fees of \$22,500 or 33.3%. We wonder if this substantial increase is supported with any additional benefit or service. It seems to us that the significant fee increase may only serve to raise the uneven relative burden that investment fund companies already shoulder.

**CONCLUSION**

Although the proposed fee increases in the Proposed Rule are not as large for investment funds as compared to the increases for other issuers, the investment fund industry continues to bear a disproportionate burden of the overall costs of the securities industry.

We thank you for the opportunity to comment on the Proposed Rule. As always, we are more than willing to meet with you to discuss our comments.

Yours truly,

*"Robert Sklar"*

Robert Sklar  
Senior Legal Counsel

c.c. Robert Strickland, President  
W. Sian Burgess, Senior Vice President, Fund Oversight

January 18, 2016

Sent by e-mail to: [Jennifer.ronalds@asc.ca](mailto:Jennifer.ronalds@asc.ca)

Ms. Jennifer Ronalds  
 Legal Counsel, Office of the General Counsel  
 Alberta Securities Commission  
 Suite 600, 250 – 5<sup>th</sup> Street SW  
 Calgary, Alberta  
 T2P 0R4

**Re: Proposed ASC Rule 13-501 Fees**

Dear Ms. Ronalds;

ICE Futures Canada, Inc. (IFCA) and ICE Clear Canada, Inc. (ICCA) appreciate the opportunity to comment on Proposed Alberta Securities Commission (ASC) Rule 13-501 *Fees*.

IFCA operates Canada’s only agricultural commodity futures exchange. It has been in continuous operation since 1887 and was acquired by Intercontinental Exchange, Inc. (ICE) in August 2007. ICCA is the designated clearing agency for IFCA.

ICE is a leading global operator of exchanges and clearing agencies, currently operating eleven regulated derivatives and equities exchanges and seven clearing houses in the United States, Europe, Canada and Singapore. ICE also operates over-the-counter markets and is a provider of market data, technology, benchmark administration and post-trade services. ICE’s global marketplaces serve a broad array of markets for energy, environmental and agricultural commodities, interest rates, credit derivatives, equity derivatives, metals and currency derivative contracts, as well as equity and equity option securities. A number of ICE subsidiaries, including ICE Futures Europe, ICE Futures U.S., ICE Clear Credit, ICE Futures Canada, ICE Clear Canada, ICE Swap Trade, Creditex Securities Corporation and ICE Trade Vault operate in various Canadian provinces under recognition, designation or exemptive relief orders.

**Comments on ASC Rule 13-501 (the “Proposed Rule”)**

This response focuses on the proposed fees relative to non-Alberta based (“foreign”) entities that require exemptive relief in order to offer products and/or services to Alberta residents.

The Proposed Rule provides for a \$41,500 application fee to file an initial application for each of a foreign exchange and a foreign clearing agency. Subsequent to an exemptive order being issued, the proposed annual fee is \$5,000.00 for each of an exchange and clearing agency. To date there have been no fees assessed for these activities.

In addition, the Proposed Rule, at Part 7 Section 37, contains a substantial fee of \$50,000 to be paid in the event of a merger, acquisition, reorganization or restructuring of an exchange or



clearing agency.

The following issues with the proposed fees are noted;

- a) The proposed fees appear to be excessive when compared to the fees charged by other statutory regulatory authorities. Without a transparent process registrants and the public cannot assess the reasonableness and fairness of the fees;
- b) The proposed fees do not distinguish between exchanges and clearing agencies which are located in Canada and exchanges and clearing agencies located outside of Canada. Given the signed Memorandums of Understanding<sup>1</sup> in place which provide for a “primary regulatory” model, there is no need for the level of oversight evidenced by the costs in the proposed fees;
- c) The proposed fees do not provide for a true accounting of costs, but instead divide the costs among all foreign entities, without reference to the resources actually expended by staff of the ASC; and
- d) The proposed fees have the potential to result in harm and reduced market access for Alberta residents, and harm to Canadian marketplaces and clearing agencies.

Further discussion on each of these points follows.

- a) The proposed fees appear to be excessive;

Without further detail it is not possible to determine whether the proposed fees are reasonable. There is no information provided as to how the fees were arrived at. It is submitted that there should be an analysis based on actual costs expended over the past several years. We note that an application fee of \$41,500 is very significant. We also note the fee of \$50,000 in the event of a merger, reorganization or restructuring. At the outset this appears to be a very expensive filing fee for a matter that may not have any regulatory consequences. Without more information, there is no ability to assess the reasonableness of the proposed fees.

We note that regulators in many of the world’s major markets do not have either initial application fees or annual fees for marketplaces and clearing agencies requesting exemptive relief. Examples include both the US Commodity Futures Trading Commission’s Foreign Board of Trade Registration process and the European Securities and Monetary Authority’s third country CCP application.

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<sup>1</sup> See the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems among the AMF, ASC, BCSC, MSC, OSC and SFSC, effective January 1, 2010 and the Memorandum of Understanding Respecting the Oversight of Clearing Agencies, Trade Repositories and Matching Service Utilities, among the ASC, AMF, BCSC, FCAA, FCNB, MSC, NSSC and OSC, to be effective on the Effective Date of the MOU. Links: [https://www.osc.gov.on.ca/documents/en/Securities/mou\\_20091002\\_nca-amd-mou-qtrs.pdf](https://www.osc.gov.on.ca/documents/en/Securities/mou_20091002_nca-amd-mou-qtrs.pdf)  
[https://www.osc.gov.on.ca/documents/en/About/20151203\\_nma-oversight-clearing-respositories-service-utilities.pdf](https://www.osc.gov.on.ca/documents/en/About/20151203_nma-oversight-clearing-respositories-service-utilities.pdf)

The ASC is urged to take a similar approach to that of regulators in the United States and the European Union, which view the presence of marketplaces and clearing agencies as positive economic drivers. In order to ensure that their residents have access to the worlds' markets, they do not charge fees to foreign marketplaces and clearing agencies seeking exemptive relief.

In the event that the ASC continues to be of the view that some fees are necessary we submit that it should focus on determining whether a comparable regulatory regime exists in foreign jurisdictions and where such equivalency is found, grant the exemptive relief without lengthy and detailed application processes on foreign marketplaces and clearing agencies. This would be consistent with current regulatory best practices, would reduce costs, and would avoid unnecessary, duplicative regulation.

- b) The proposed fees should distinguish between exchanges and clearing agencies located in Canada and exchanges and clearing agencies located outside of Canada. More reliance should be placed on the "primary" regulator model which should reduce the proposed fees significantly;

The ASC is urged to amend the Proposed Rule which treats all exchanges and clearing agencies located outside Alberta similarly. We submit there should be an acknowledgement that exchanges and clearing agencies located outside Alberta but in Canada do not need the level of review currently in place, both on initial exemptive relief applications and ongoing oversight.

As noted above, the MOUs<sup>2</sup> in place between the securities commissions of Québec, Manitoba, Saskatchewan, Alberta, Ontario and British Columbia, provide that a "primary" regulator, usually the home jurisdiction of the registrant, takes the major role with respect to the registrant, and the other provincial securities commissions act as "exempting" regulators. It is submitted that this model has worked well to date and could and should be relied upon more robustly. We urge the ASC to work with the primary regulator(s) of Canadian marketplaces and clearing agencies, both for the application review of the entity as well as for ongoing filing requirements. This should eliminate or reduce very substantially the proposed annual participation fee of \$5,000.

We submit there is no value in the ASC conducting a detailed application review for a clearing agency that has been approved and is operating under the primary regulatory oversight of another Canadian securities commission. Part 2 of National Instrument 24-102, which comes into effect on February 17, 2016, provides for common application requirements for all Canadian clearing agencies. Part 3 provides that all Canadian clearing agencies must meet similar requirements on an on-going basis. We submit there is no benefit in having the staff at more than one Canadian securities commission review applications and ongoing filings. If there are matters unique to participants in in a specific province such matters could reviewed on a case by case basis. However, the current process, which requires that clearing agencies submit separate applications to all Canadian securities commissions and then provide all of those securities commissions with the same copies of all filings concerning rule amendments and

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<sup>2</sup> Ibid footnote #1.



similar, is duplicative, inefficient and unnecessary and does not provide either enhanced investor protection or more efficient and transparent capital markets<sup>3</sup>.

c) The fees in the Proposed Rule are not based on a true accounting of actual costs;

The Proposed Rules have not set fees on a fair and measurable basis. As noted previously, there is insufficient detail set out in the Proposed Rule to determine how the proposed fees were arrived at, however, with respect to exchanges and clearing agencies, the ASC is proposing to take all costs related to the oversight of all non-Alberta-based exchanges and clearing agencies and divide those costs evenly, without reference to actual time or costs expended. This approach assesses and charges exchanges and clearing agencies of different sizes, products, risk parameters and vastly different resources on exactly the same basis.

The result is that the ASC is proposing to charge IFCA, a small regional exchange with a suite of "plain vanilla" agricultural futures and options contracts, the terms and risk parameters of which are well understood, the same fees as it charges to oversee the Chicago Mercantile Exchange (CME), an exchange which, in its own words is "...the world's leading and most diverse derivatives marketplace"<sup>4</sup> and which offers hundreds of products in all assets classes, including interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities, and alternative investment products. The complexity of the products offered by the CME and the increased risk analysis that is required on these products is significantly more than that of IFCA. By any fair or reasonable measure, the fees charged to IFCA should not be the same as the fees charged to the CME.

The ASC is in a unique position in being permitted to set its own fees and we caution that it do so carefully and fairly. The one size fits all approach to fees in the Proposed Rule pertaining to exchanges and clearing agencies is unfair and compels smaller exchanges and clearing agencies to subsidize the additional work and review attached to larger exchanges and clearing agencies.

The sum of \$5,000 per annum does not bear connection to the actual costs that staff of the ASC have spent in overseeing the exemptive order issued by the ASC to IFCA in 2013. IFCA and ICCA submit that the *actual* costs of each ASC department, including the time spent on each filing by exempted entity, should be recorded, determined and published.

d) The proposed fees have the potential to result in harm and reduced market access for Alberta residents, and harm to Canadian marketplaces and clearing agencies as foreign regulators may respond with similar fee requirements.

The ASC is urged to consider that the fees that it is proposing to assess against non-Alberta-

<sup>3</sup> CSA website – at <http://www.securities-administrators.ca/> The website of the Canadian Securities Administrators notes that the mission of these regulators is to protect investors, provide for fair, efficient and transparent markets, and reduce systemic risk. It is further noted that "...in pursuing these three objectives, securities regulators try to protect investors while supporting efficient capital markets."

<sup>4</sup>[http://www.cmegroup.com/company/history/?utm\\_source=about\\_flyout&utm\\_medium=corporate\\_overview&utm\\_campaign=flyout](http://www.cmegroup.com/company/history/?utm_source=about_flyout&utm_medium=corporate_overview&utm_campaign=flyout)

based exchanges and clearing agencies will be in addition to those charged by the other provincial securities commissions in Canada. In setting new fees for activities not normally covered, and in setting those fees at such a high amount, the ASC risks unfairly restricting competition from smaller derivative exchanges and clearing agencies. This in turn could result in less investment and hedging opportunities available to Alberta residents. It is submitted that that the result of increasing fees to foreign exchanges and clearing agencies will result in less market access to residents of Alberta. Large institutional entities have affiliates and subsidiaries that they will utilize to gain access to the markets they require, regardless of whether or not those markets have sought exemptive relief from the ASC; however, smaller Alberta companies and retail clients will be unable to access these markets. The result will be reduced trading opportunities for smaller Alberta-based investors. It is submitted that the ASC has an obligation to ensure that the Proposed Rule does not result in reduced competition and fewer investment options for Alberta businesses and investors.

We also are concerned that the proposed fees could cause foreign regulators to determine that the fees charged by Canadian regulators on their marketplaces and clearing agencies are unfair and discriminatory and will reciprocate by charging additional fees on Canadian marketplaces and clearing agencies wishing to operate in those jurisdictions. This would be harmful not only to the Canadian exchanges and clearing agencies but also to the Canadian economy, which has a significant interest in ensuring its markets are available in the worlds, major marketplaces.

\* \* \* \*

Thank you for the opportunity to comment on Proposed ASC Rule 13-501 Fees. We would be pleased to discuss any area of this letter with you, at your convenience. Please do not hesitate to contact me at [linda.vincent@theice.com](mailto:linda.vincent@theice.com) or at 1.204.925.5009.

Yours truly,



Linda Vincent  
General Counsel



January 18, 2016

SENT BY ELECTRONIC MAIL

Alberta Securities Commission  
Attn: Jennifer Ronalds  
Legal Counsel, Office of the General Counsel  
Phone: 403-355-9047  
Email: [jennifer.ronalds@asc.ca](mailto:jennifer.ronalds@asc.ca)

Dear Jennifer:

**Comments on Proposed ASC Rule 13-501 – Fees**

This letter is in response to the request for comments regarding the proposed Alberta Securities Commission (“ASC”) Rule 13-501 – *Fees* (the “**Fee Rule**”), which the ASC expects will come into force on December 1, 2016 (the “**Effective Date**”). ICE Trade Vault, LLC (“**ICE Trade Vault**”) appreciates the opportunity to comment on the proposed Fee Rule.

ICE Trade Vault is designated or recognized as a trade repository (“**TR**”) in the provinces of Ontario, Quebec and Manitoba, and ICE Trade Vault expects to seek recognition as a TR in Alberta upon the coming into force of proposed Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* (“**MI 96-101**”). ICE TV has engaged in detailed discussions with ASC Staff over several months in anticipation of MI 96-101. In the United States, ICE Trade Vault is a provisionally registered Swap Data Repository regulated by the Commodity Futures Trading Commission. ICE Trade Vault is a wholly owned subsidiary of Intercontinental Exchange Holdings, Inc., which itself is owned by Intercontinental Exchange, Inc. (“**ICE**”). ICE is a leading operator of regulated global markets and clearing houses, including futures exchanges, over-the-counter markets, derivatives clearing houses and post-trade services.

We acknowledge that the ASC has proposed a fee structure for all capital markets participants that is designed to recover the costs that the ASC incurs to provide protection to investors and promote efficient capital markets. We also acknowledge that the proposed Fee Rule is meant to align fees more closely with the Commission’s costs, which are increasing due to the implementation MI 96-101. Nevertheless, we are very concerned that the ASC is proposing to set very high fees for TRs, including an initial application fee of \$41,500 and an annual fee of \$15,000/year. The implementation of such regulatory fees will force TRs to increase the fees charged to market participants, which will increase the burden and costs these participants will experience to comply with MI 96-101.

ICE Trade Vault reserves comment on the proposed initial application fee on the basis that ICE Trade Vault does not expect to pay an application fee to seek recognition as a TR in Alberta. ICE Trade Vault already pre-filed a TR application with ASC Staff and plans to file a formal application for recognition upon the coming into force of MI 96-101. It is our





understanding that MI 96-101 will come into force, and ICE Trade Vault will apply for TR recognition, well before the Effective Date, making the initial application fee proposed in the Fee Rule irrelevant. If this understanding is incorrect, then we reserve the right to submit comments on the proposed initial application fee.

With respect to the proposed annual fee of \$15,000/year, ICE Trade Vault is very concerned that the fee is not aligned with the ASC's actual costs to register previously recognized TRs in the provinces of Ontario, Quebec and Manitoba. In particular, the ASC will be a Reliant Authority for ICE Trade Vault, and not a Lead Authority or Co-Lead Authority (each term as defined in *Memorandum of Understanding Respecting the Oversight of Clearing Agencies, Trade Repositories and Matching Service Utilities*). Respectfully, ASC Staff is not in a position to accurately estimate the costs associated with the ongoing oversight of a TR as a Reliant Authority. There is no prior history of the ASC overseeing TRs. At best, ASC Staff can assess the costs associated with reviewing the recognition applications filed by TRs and developing designation orders. Nevertheless, these costs should be reflected in the TR application fee, not the annual fee.

In our view, the proposed annual TR recognition fee is excessive and sets an unfair precedent for capital markets participants in Alberta. This annual fee would cause substantial difficulties for a firm such as ICE Trade Vault to execute its business plan in Alberta. It is important to emphasize that a TR is a commercial entity with significant expenses; a TR must garner the necessary revenues and margin to operate in accordance with the requirements of MI 96-101. To date, no regulator (including the ASC) has been willing to devote the significant resources necessary to building its own derivatives TR, in order to fulfill G-20 commitments. TR duties and responsibilities are significant: a TR must ensure market participants' trade data is maintained in a secure manner, provincial regulators readily have access to data and public reports are generated. To fulfill these duties and responsibilities and operate in accordance with ASC rules, a TR must invest in enterprise systems, hosting facilities, data security and staffing.

ICE Trade Vault performed a thorough analysis of costs and potential revenues when deciding whether to enter the Canadian market to provide TR services. Such a large and unexpected fee increase as the one proposed by ASC Staff, would jeopardize the financial viability of ICE Trade Vault in Alberta and would require ICE Trade Vault to pass along the fee increase to its customers. ICE Trade Vault would also need to adopt additional precautionary measures to guard against future unexpected fee increases, either in Alberta or in other Canadian provinces that might be influenced by the ASC's willingness to introduce such substantial fees.

In the notice that accompanies the proposed amendments to the Fee Rule, it is stated that the ASC's costs have increased, but the amount of the increase has not been disclosed. Nor has there been a transparent discussion of the projected future costs for the ASC to regulate TRs, which is a necessary action in order to provide the public with an opportunity to submit meaningful comments. In our respectful opinion, it would be far more fair, reasonable and consistent with international norms for the annual fees for recognized TRs to be initially set, and increase, in line with the ASC's actual costs. More specifically, in our view the annual TR fee of



a Reliant Authority such as the ASC should not exceed \$3,000/year and fee increases should not be greater than 10% year-over-year.

Thank you for the opportunity to comment on the proposed Fee Rule. If you have any questions or comments, please contact Kara Dutta (770.916.7812 [kdutta@theice.com](mailto:kdutta@theice.com)).

Yours very truly,

A handwritten signature in blue ink that reads "Bruce A. Tupper".

Bruce A. Tupper  
President  
ICE Trade Vault, LLC

A handwritten signature in blue ink that reads "Kara Dutta".

Kara Dutta  
General Counsel  
ICE Trade Vault, LLC

Cc: Blaire Wiley, Osler, Hoskin & Harcourt LLP  
Trabue Bland, Intercontinental Exchange Inc., Vice President, Regulation

**STIKEMAN ELLIOTT**

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**DELIVERED BY E-MAIL**

January 18, 2016

Jennifer Ronalds  
 Legal Counsel, Office of the General Counsel  
 Alberta Securities Commission  
 Suite 600, 250-5<sup>th</sup> St. SW  
 Calgary, Alberta, T2P 0R4  
[Jennifer.Ronalds@asc.ca](mailto:Jennifer.Ronalds@asc.ca)

Dear Ms. Ronalds,

RE: ASC Notice and Request for Comment on Proposed ASC Rule 13-501 *Fees* dated November 2, 2015

Thank you for the opportunity to comment on the proposed ASC Rule 13-501 (“**ASC Rule 13-501**”) as proposed in the ASC Notice and Request for Comment on Proposed ASC Rule 13-501 *Fees* dated November 2, 2015.

*This letter represents the general comments of certain members of the Securities practice group and the Financial Products & Services practice group at Stikeman Elliott LLP (and not those of the firm generally or any client of the firm) and are submitted without prejudice to any position taken or that may be taken by our firm on its own behalf or on behalf of any client.*

As the Alberta Securities Commission (“**ASC**”) is adopting a fee model which is similar to the Ontario Securities Commission’s (“**OSC**”) fee model, the principal thrust of our comments is that ASC should use its “second mover advantage”. In other words, ASC staff should learn from their counterparts at the OSC and avoid some of the difficulties inherent in the OSC’s administration of their fee model. For example, the ASC’s fee model for firms relying on the international dealer exemption and the international adviser exemption is more straightforward and avoids the selective disclosure and related issues that may arise from estimating revenues in Ontario as required under the OSC’s fee model. As set out in further detail below, we commend the ASC for adopting this approach.

We also encourage ASC staff to identify any opportunities to ease the administrative burdens on issuers that can result from harmonization of parts of the fee models of the securities commissions representing the two largest provincial capital markets in Canada.

TORONTO  
 MONTREAL  
 OTTAWA  
 CALGARY  
 VANCOUVER  
 NEW YORK  
 LONDON  
 SYDNEY



## 1. Fees for unregistered exempt international firms

We are generally supportive of the fee model adopted by the ASC in respect of firms relying on the international dealer exemption and the international adviser exemption (“**unregistered exempt international firms**”). The ASC’s fee model is simplified and avoids some of the difficulties associated with the OSC’s fee model with respect to unregistered exempt international firms.<sup>1</sup> However, we caution that the ASC fees may be seen by some firms as excessive when compared with the fees levied by the OSC.

We note that section 6 of ASC Rule 13-501 proposes a fee that is significantly higher than what some unregistered exempt international firms would pay in Ontario. It provides as follows:

*6. A fee of \$1400 must accompany any of the following:*

*(a) Form 31-103F2 Submission to Jurisdiction and Appointment of Agent for Service filed pursuant to either paragraph 8.18(3)(e) or paragraph 8.26(4)(f) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations;*

*(b) a notice given pursuant to either subsection 8.18(5) or subsection 8.26(5) of NI 31-103.*

Firms with annual revenues in the province of less than \$500,000 would pay significantly more in Alberta than they would in Ontario. We appreciate that the various securities commissions vary in the fees that they charge market participants for various policy reasons. However, our contention is simply that the ASC may wish to consider whether these particular disparities should be addressed, either in the form of transition provisions or relief for smaller and/or start-up firms.

Under ASC Rule 13-501, an unregistered exempt international firm will pay a fee of \$1,400 when it applies for the first time to use an exemption (by the act of filing Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service*). If the firm provides notice that it relied on the exemption it is subject to a second fee of \$1,400, regardless of the amount of annual revenues it generated in Alberta in reliance on the exemption.

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<sup>1</sup> The fee model proposed by the ASC has the distinct advantage of not requiring unregistered exempt international firms to estimate their revenues to calculate fees payable. In Ontario, an unregistered exempt international firm is required to calculate its fees payable by December 1 of each calendar year for its activities in Ontario for the firm’s previous financial year (see s. 3.1(2) of OSC Rule 13-502 *Fees*). Since the fee payable is tied to an unregistered exempt international firm’s revenues in Ontario, this requirement means that firms with a December 31st year-end must estimate their Ontario revenues for the end of the year. Indeed, section 3.2 of OSC Rule 13-502 *Fees* explicitly requires that unregistered exempt international firms estimate their revenues if their annual financial statements are not available by December 1st. The result is an administratively difficult process that may require a second filing once actual revenue figures are available, if the estimated fee that was paid is inaccurate (see s. 3.2(2) and s. 3.2(3) of OSC Rule 13-502 *Fees*). Another troublesome aspect of the OSC procedure is that estimated annual revenues may constitute material non-public information, which may raise selective disclosure or other issues for the unregistered exempt international firm. We are content that the proposed ASC fee model avoids these difficulties.

In contrast, under OSC Rule 13-502 *Fees* (“**OSC Rule 13-502**”), an unregistered exempt international firm which has specified revenues in Ontario below \$250,000 pays a fee of only \$835 if it uses the exemption. A firm which has revenues of between \$250,000 and \$500,000 only pays \$1,085 in fees to the OSC. Furthermore, under the OSC’s fee model, no fees are payable for filing Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service of Process*.

The table below more clearly illustrates these disparities for the first year of operations of an unregistered exempt international firm:

	ASC	OSC
Firm has provincial revenues of less than \$250,000	\$2,800	\$835
Firm has provincial revenues between \$250,000 and \$500,000	\$2,800	\$1,085

While we certainly hope that this is not the case, this disparity in fees may very well discourage certain unregistered exempt international firms from engaging in activity in Alberta, particularly given the current economic climate.

## **2. Filing procedures of ASC Rule 13-501 forms**

A worthwhile benefit of the ASC adopting a fee model that is similar to that adopted by the OSC is the opportunity to ease the administrative burdens on issuers. For example, Form 13-501F1 *Class 1 Reporting Issuers and Class 3B Reporting Issuers – Participation Fee*, Form 13-501F2 *Class 2 Reporting Issuers – Participation Fee*, Form 13-501F3 *Adjustment of Fee Payment for Class 2 Reporting Issuers*, Form 13-501F4 *Class 3A Reporting Issuers – Participation Fee* and Form 13-501F6 *Subsidiary Exemption Notice* appear to be substantially similar to the equivalent forms under OSC Rule 13-502. Accordingly, issuers’ regulatory obligations would be simplified if they are permitted to electronically file a single consolidated form with both securities commissions. Issuers could provide payment of fees separately to each securities commission.

We recommend that all such opportunities to facilitate issuers’ regulatory compliance with respect to fees be identified by ASC and OSC staff and that mechanisms be implemented to ease the related administrative responsibilities of issuers.

## **3. Fees for registrant acquisitions**

Section 7 of ASC Rule 13-501 provides that a fee of \$1,750 is payable when a notice is filed under provisions of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“**NI 31-103**”) pertaining to a registrant acquiring a registered firm’s securities or assets or a registered firm whose securities are acquired:

*7. A notice required under section 11.9 or section 11.10 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations must be accompanied by a fee of \$1750.*

We suggest that section 7 be clarified to provide that the fee is only payable to the ASC if the ASC is the principal regulator of acquirer registrant or the target registrant. Such a clarification is consistent with sections 1.3(2) and 1.3(4) and of NI 31-103, which provide as follows:

*1.3(2) For the purpose of a requirement in this Instrument to notify or to deliver or submit a document to the regulator or the securities regulatory authority, the person or company may notify or deliver or submit the document to the person or company's principal regulator.*

...

*1.3(4) Despite subsection (2), for the purpose of the notice and delivery requirements in section 11.9 [registrant acquiring a registered firm's securities or assets], if the principal regulator of the registrant and the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b), if registered in any jurisdiction of Canada, are not the same, the registrant must deliver the written notice to the following:*

*(a) the registrant's principal regulator; and*

*(b) the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b) as applicable, if registered in any jurisdiction of Canada identified in paragraph 11.9(1)(a) or 11.9(1)(b).*

Accordingly, the ASC would only receive a notice under sections 11.9 or 11.10 of NI 31-103 if it is the principal regulator. A fee should therefore not be payable to the ASC if, for example, a registrant with branch offices in Alberta files a notice under section 11.9 or section 11.10 with the OSC as its principal regulator.

#### **4. Late fees**

We suggest that the ASC consider coordinating with the OSC to permit fees in respect of late filings to be payable only to a firm's principal regulator instead of to each securities commission. This alternative is consistent with the policy objective of deterring late filings and avoids the possibility of rapidly multiplying late fees. The difficulty with the ASC's proposal is that if an issuer is late in making a particular filing, late fees would be payable to both the OSC and the ASC. This can result in late fees adding up quickly, particularly if other CSA jurisdictions adopt similar policies.

With respect to Form 45-106F1 *Reports of Exempt Distribution* ("**Reports**") in particular, we note that while the OSC caps late fees in respect of Reports at \$5,000, this is an annual cap on all Reports filed by an issuer. On the other hand, the ASC's cap on late fees for Reports is \$1,000, but it applies to late fees in respect of each individual Report. While there are merits to each policy, the ASC's method can result in late fees well in excess of \$5,000, if, for example, a smaller unrepresented issuer that is frequently in the market is unaware of the obligation to file Reports of Exempt Distribution. Between the requirement to pay late fees in multiple jurisdictions and the variations in caps on fees, late fees for

Reports can be significant in relation to the smaller proceeds sometimes attributable to private placements.

Finally, we urge the ASC to consider calculating late fees on the basis of business days. This will harmonize the calculation of late fees with the established approach already adopted by the OSC.

**5. Fees for exempt exchanges and clearing houses**

We are concerned with the annual fees levied on clearing agencies and exchanges exempted from recognition under the *Securities Act*. Exempt clearing agencies and exchanges often have limited or indirect connection to Alberta and, because the ASC will not be the principal regulator, it will have limited oversight costs. It is therefore difficult to justify charging such firms \$5,000 annually after having paid an exemption application fee of \$41,500. The burden placed on exempt clearing agencies and exchanges is compounded if they are also relying on an exemption in Ontario. The OSC already charges exempt clearing agencies and exchanges \$10,000 annually and an \$83,000 exemption application fee.

While we acknowledge that the fees payable to the OSC are significantly higher than fees payable to the ASC, our concerns with respect to the ASC's fee model stand and we would express the same concerns to the OSC.

Notwithstanding the above, we commend the ASC for taking a measured approach in respect of participation fees for recognized exchanges, recognized quotation and trade reporting systems, recognized clearing agencies and recognized trade repositories. While the fees levied by the ASC are not insignificant, they are roughly one-half of the fees levied by the OSC and reveal the ASC's awareness of the burden of excessive fees on capital markets and its participants.

\* \* \*

We thank the Alberta Securities Commission for the opportunity to comment on ASC Rule 13-501 and would be pleased to discuss these issues further.

Submitted on behalf of members of the Securities practice group and the Financial Products & Services practice group at Stikeman Elliott LLP by,

"Junaid Subhan"

Junaid Subhan,  
on my own behalf and on behalf of

Alix d'Anglejan-Chatillon  
Ramandeep Grewal  
Christopher Nixon  
Darin Renton  
Simon Romano



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January 18, 2016

**DELIVERED BY EMAIL**

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T2P 0R4

**Email:** [jennifer.ronalds@asc.ca](mailto:jennifer.ronalds@asc.ca)

Dear Ms Ronalds:

**Re: Proposed Rule 13-501**

TMX Group Limited (“**TMX**”) appreciates the opportunity to comment on proposed Rule 13-501 *Fees* (“**Proposed Rule**”) published by the Alberta Securities Commission (“**ASC**”) on November 2, 2015. TMX recognizes that the ASC operates on a cost recovery basis and that ASC fees have remained static for approximately ten years. We understand the ASC’s need to review and update its fees in order to ensure that it can continue to execute its mandate to foster fair and efficient capital markets and to protect investors.

TMX’s key subsidiaries operate cash and derivative markets for multiple asset classes including equities, fixed income and energy. TSX Venture Exchange, Toronto Stock Exchange, Natural Gas Exchange, Alpha Exchange, Montreal Exchange, The Canadian Depository for Securities, Canadian Derivatives Clearing Corporation, Shorcan, Shorcan Energy Brokers and other TMX companies provide listing markets, trading markets, clearing facilities, data products and other services to the global financial community. Many of our subsidiaries and our customers are regulated by the ASC. As such, TMX is well positioned to provide feedback on the Proposed Rule.

The financial challenges under which the ASC’s regulated constituents currently operate are considerable. A portion of TMX’s issuer and dealer communities are struggling to survive. While there are obvious economic factors impacting Canadian, and in particular Albertan, interests, TMX is cognizant that over the past years the cost of regulation has been seen to be a contributing factor to the challenges faced by small and medium enterprises (“**SMEs**”) and small, independent



dealers. These SMEs and small dealers play a vital role in the innovation that underpins capital growth in this country. As well, with the increasing globalization of capital markets, we believe that Canadian securities regulators must ensure that the regulatory framework for doing business in Canada ensures a level playing field for foreign and domestic entities that operate to serve Canadian market participants. It is within this context that we provide our comments on the Proposed Rule.

### **Reporting Issuer Fees**

Under the Proposed Rule, an issuer's fees are determined based on its market capitalization rather than on a flat fee basis. We are supportive of this approach, in particular because it will result in a reduction of annual fees paid by a majority of SMEs listed on TSX Venture Exchange. TMX is committed to revitalizing TSX Venture Exchange to support capital raising by these small enterprises that are so fundamental to Canadian innovation. As part of our efforts, TSX Venture Exchange is proactively working to reduce our clients' administrative and compliance costs in a meaningful way, without compromising investor confidence. TMX agrees, therefore, with the approach taken by the ASC which we expect will not increase costs for most TSX Venture Exchange-listed issuers.

However, the increase in fees that will be charged to our larger issuers under the Proposed Rule is considerable. As an example, we calculate that TMX's annual fee as a reporting issuer in Alberta will increase by over 1,000%. It is our understanding that the largest issuers in Canada will see their ASC annual fees increase from \$2,400 to \$57,500. This fee increase is extreme, and it is unclear upon reading the ASC's notice why such a significant increase would be warranted on a permanent basis. While we understand that the ASC has been operating at a deficit over the past years and that increased fees are required to enable it to operate going forward, we urge the ASC to reconsider the amount to be charged to larger issuers, and the manner in which the fee changes will be implemented. We suggest considering a gradual roll-out of the fee increases over a period of three to five years. For example, under a three year roll-out plan, a top tier issuer could pay \$20,000 in 2017, \$40,000 in 2018, and \$57,500 in 2019. The benefit of a phased-in implementation is two-fold: issuers would not incur as much of a burden from the extreme year-over-year fee increase, and the ASC could simultaneously review the impact of the increased fees to determine whether the ultimate annual fee is set at in the right level.

### **Other Specific Regulated Entities**

Under the Proposed Rule, the annual fee for a recognized equities exchange is the same when the ASC is the sole lead regulator as it is when the ASC is a co-lead regulator. TMX believes that the ASC should consider setting a lower fee for exchanges, such as TSX Venture Exchange, that are co-lead regulated. Under the current model that applies to TSX Venture Exchange, the ASC and the British Columbia Securities Commission share responsibilities by segmenting specific regulatory activities. This system has been very effective; ensuring that co-lead recognition has not resulted in duplicative regulation. This goal for efficiency should extend to the fees that are charged for co-lead regulation. At minimum, we would expect that the ASC take into account the





fees charged by the other co-lead regulator in such a situation and consult with the co-lead regulator to ensure that the joint lead regulation does not result in an annual fee that is twice as costly for TSX Venture Exchange as it would be for another exchange recognized by the ASC.

We acknowledge that fee setting with respect to entities such as exchanges and clearing houses is a difficult process, and we appreciate and recognize that the ASC is proposing fees that are generally half the amount of the fees charged by the Ontario Securities Commission for the same activity. We are encouraged by the fact that the ASC is viewing derivatives exchanges and derivatives clearing houses in a different light than equities exchanges and cash clearing houses. There should not be a one-size-fits-all approach to these very distinct markets. At this time, we are not in a position to suggest a better fee model for regulated entities in the derivatives space than a flat fee, as is being proposed by the ASC.

For exchanges and clearing agencies that apply to be exempt from recognition, we believe that the ASC should apply a different fee for an entity that is recognized by a member of the Canadian Securities Administrators (“**CSA**”) as compared to an entity that is regulated under the laws of a non-Canadian jurisdiction. In order to exempt a non-Canadian entity, the ASC would need to make a determination that the entity’s home-country jurisdiction provides supervision and regulation that is equivalent to that applied by the ASC. Performing this assessment would take considerable resources if done in a comprehensive manner. By comparison, granting exemption based on the recognition of another CSA jurisdiction should take considerably fewer resources. The Canadian rules pertaining to clearing houses and marketplaces are in National Instruments and there are typically very minor distinctions between clearing house and marketplace rules that apply in different provinces. As well, memoranda of understanding exist among CSA members with respect to clearing houses and exchanges, and CSA staffs collaborate regularly regarding the regulation of these entities. As such, we would expect that the resources used to review applications for exemption would be considerably less when the recognizing regulator is a fellow CSA member upon which the ASC’s reliance could be significant.

### **Comment Process**

The Proposed Rule’s notice advises that the ASC has considered models in other jurisdictions. This statement is not helpful for a reviewer of the Proposed Rule. If the ASC were to include the specific alternatives considered and a summary of other relevant fee models for comparison, this would likely result in better formed comments from reviewers. Other CSA rule proposals as well as rule amendments proposed by a number of TMX’s regulated entities contain a discussion of alternatives considered or a discussion of other models for benchmarking purposes. This type of disclosure makes the public comment process more meaningful for all involved.

In addition, we suggest that consulting with advisory committees in advance of proposing a significant change such as the Proposed Rule could be of value in the overall comment process. The Investment Industry Regulatory Organization of Canada often consults with advisory committees with respect to rule and fee proposal in order to ensure that its constituents’ views are heard as part of its rule and fee development process. We are not aware that the ASC used any of its advisory committees for this purpose, and we would suggest doing so in the future.



**Conclusion**

We conclude our comments by requesting that the ASC, in reviewing all comments received, ensure that the final version of the Proposed Rule does not result in market participants enduring a financial burden that is excessive, and that the implementation of the Proposed Rule takes into account the current pressures on capital market participants.

We would be pleased to discuss our comments further at your convenience.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Deanna Dobrowsky', written in a cursive style.

Deanna Dobrowsky  
Vice President, Regulatory