

OSC WAIVES FEES FOR LATE OBA DISCLOSURES AS PART OF BURDEN REDUCTION PROJECT

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On May 15, 2019, the Ontario Securities Commission (“**OSC**”) announced that registrants will no longer have to pay late fees associated with the disclosure of outside business activities (“**OBAs**”) past the required deadline.^[1] The moratorium on late fees will last for two years, beginning retroactively as of January 1, 2019 and ending on December 31, 2021.

According to Ontario securities law, registrants must report any new OBA or a modification to a current OBA^[2] within ten (10) days of the applicable event. Currently, the OSC’s Fee Rules impose a penalty of **\$100 per business day** for disclosure of OBAs made after this 10 day deadline, subject to certain annual maximum later fee limitations. Under the new amendments, individual registrants will remain subject to the obligation to disclose new or amended OBAs within ten (10) days, but the OSC will not penalize them for late filings.

The OBA disclosure regime remains unchanged while the fee moratorium is in effect. The amendments to the Fee Rules only impact the way late fees are calculated. Therefore, registrants and permitted individuals must continue reporting OBAs in accordance with the rules. The disclosure of OBAs enables the OSC to assess and address potential conflicts of interests arising from outside activities.

The OSC’s Burden Reduction Task Force has a mandate to identify and act on ways to eliminate unnecessary rules and procedures while protecting investors and the integrity of capital markets. In response to comments received from registrants and the general level of confusion surrounding what constitutes an OBA or the filing requirements for OBAs, the OSC identified the disclosure regime as an area for burden reduction. The OSC intends to clarify the OBA reporting requirements during the two-year late fee moratorium period.

The amendments to OSC Rule 13-502 Fees and OSC Rule 13-503 (*Commodity Futures Act*) Fees, along with their corresponding Companion Policies implementing the late fee moratorium, will come into force fifteen (15) days after Ministerial approval. The moratorium is expected to save Ontario registrants more than \$700,000 based on the fees collected last year.^[3]

The notice of amendments and changes to the Fee Rules is published on the [OSC website](#). For more information on the Burden Reduction Task Force [click here](#).

Please do not hesitate to reach out to a member of the McMillan Investment Funds and Asset Management Group at McMillan LLP if you have any questions with respect to the information above.

by Michael Burns and Ouvedi Rama Naiken, Summer Law Student

[1] Ontario Securities Commission, News Release, “Fees for delayed OBA filings to be waived as part of OSC burden reduction project” (May 15, 2019), online: *News and Events*

[2] National Instrument Registration Information (Unofficial Consolidation), OSC NI 33-109, (2017) at para 4.1(1)(b).

[3] *Supra* note 1 at para 6 citing Debra Foubert, Director of Compliance and Registrant Regulation at the OSC.

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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