



REQUEST FOR COMMENTS

Notice and request for Comment – Publishing for comment Local Rule 11-501- *Fee Rule*

Introduction

On 14 February 2005, the New Brunswick Securities Commission (“the Commission”) approved publication for comment of Local Rule 11-501- *Fee Rule* (“11-501”).

The text of 11-501 can be obtained from the Commission website:

English: [11-501](#)

French: [11-501](#)

Background

On 5 July 2004, the Commission made 11-501 – *Fee Rule* as an Emergency Rule.

The rule was posted on the website on 6 July 2004 and a Notice was published in the Royal Gazette on 21 July 2004. The rule expires on 7 April 2005.

The Commission is now publishing the rule for comment for a period of 60 days as mandated by the *Securities Act*.

After the comment period has expired, comments will be reviewed. If comments result in significant amendments, the amendments will be published for further comment. If no significant amendments are made, the rule will be brought into force.

Substance and Purpose

11-501 sets out fees and charges for registrations, filings, certificates and various applications and activities under the *Securities Act*.

The version of the rule that is being published for comment contains some changes over the original Emergency Rule. In most cases the changes involve rewording for clarity.

There are new fees in the revised rule. Fees have been added in section 4 [*Prospectuses and Annual Information Forms*], section 10 [*Request to review decision of Executive Director*], section 11 [*Applications for orders*], section 12 [*Offering Memorandum*], section 13 [*Report of Exempt Distribution*], and section 18 [*Searches*] in keeping with true costs and fees charged by other jurisdictions.

Section 23 [*Compliance review costs*] and section 24 [*Investigation Costs*] will now cover full fees paid to an expert, rather than the previous limitation to a specific amount.

Section 21 [*No Fee*] identifies the specific applications for which no fee is charged.

Request for Comment

The Commission requests your comments on 11-501.

Comments are to be provided, in writing, by Friday May 6, 2005 to:

Secretary,
New Brunswick Securities Commission
133 Prince William Street, Suite 606
Saint John, NB E2L 2B5
Telephone: (506)- 658-3060
Fax: (506)-658-3059
Toll Free (866) 933-2222 (within NB only)
E-mail: information@nbsc-cvmnb.ca

If you are not sending your comments by e-mail, please send a diskette containing your comments (in PDF or Word).

We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

Questions

If you have any questions, please refer them to:

Andrew Nicholson
Director Market Regulation
New Brunswick Securities Commission
Telephone: 506-658-3060
Toll Free (Within NB only) 1-866-933-2222
Email: Andrew.Nicholson@nbsc-cvmnb.ca



Document Type: Emergency Rule
Document N°: 11-501
Subject: Fee Rule
Amendments:
Published Date: July 1, 2004
Effective Date: July 1, 2004

The New Brunswick Securities Commission, being of the opinion that

- a) it is in the public interest to make the proposed rule without delay because there is an urgent need for the proposed rule, and
- b) without the proposed rule being made, there is a substantial risk of material harm to investors or to the integrity of the capital markets

resolves that Fee Rule 11-501 is adopted as an emergency rule.

DATED at Saint John, New Brunswick this 5th day of July, 2004.

Donne W. Smith
Chair

FEE RULE 11-501

The following fees must accompany applications and filings to the Commission:

1) Registration of dealers and advisers

- a) For an application for registration or renewal of registration as a dealer or adviser, a fee of \$600;
- b) In addition to the fee in (a), a fee of \$100 for an application for the registration or renewal of registration for each branch or sub-branch office located in New Brunswick;
- c) For an application to amend the registration of a dealer or adviser, a fee of \$100.

2) Registration of individuals

- a) For an application by an individual for registration or renewal of registration as a salesperson of a registered dealer, a fee of \$300;
- b) For an application by an individual for registration or renewal of registration as a representative of a registered adviser, a fee of \$300;

- c) For an application by an individual for registration or renewal of registration as a trading partner or trading officer of a registered dealer or a registered adviser, a fee of \$300.

3) Reinstatements and transfers

For an application to reinstate or transfer a registrant who has been suspended, a fee of \$100.

4) Prospectuses

- a) Where New Brunswick is not the principal jurisdiction for a preliminary prospectus or a pro forma prospectus, a fee of \$ 850 per issuer;
- b) Where New Brunswick is the principal jurisdiction for any preliminary prospectus or pro forma prospectus, a fee of \$1250 per issuer;
- c) In addition to the fees in (a) and (b), where the issuer of the securities is a natural resource company, a fee of \$100 for each property of the issuer that is the subject of a report filed with the preliminary prospectus or pro forma prospectus;
- d) For an annual information form filed under the provisions of National Instrument 44-101, a fee of \$1200;
- e) Where New Brunswick is not the principal jurisdiction for a preliminary simplified prospectus or pro forma simplified prospectus accompanied by an annual information form, a fee of \$1200 per issuer;
- f) Where New Brunswick is the principal jurisdiction for a preliminary simplified prospectus or pro forma simplified prospectus accompanied by an annual information form, a fee of \$1650 per issuer.

5) More than one class or unit

Where a preliminary prospectus or pro forma prospectus includes more than one class of securities or more than one type of unit offering, a fee of \$300 for each additional class of securities or each type of unit offering.

6) Financial statements

For the financial statements filed by each issuer under section 90(1) of the Act, a fee of \$150 unless the issuer has securities listed and posted for trading on the stock exchange in Canada, in which case the fee is \$250.

7) Amendments

- a) For every amendment to a preliminary prospectus, a pro forma prospectus or a prospectus, a fee of \$100 per issuer;
- b) For an amendment to a preliminary prospectus, a pro forma prospectus or a prospectus that is accompanied by a report on a property or by an amended financial statement, an additional fee of \$150 for each property reported upon and each amended financial statement.

8) Shelf prospectus supplement

For every supplement to a shelf prospectus filed under the provisions of National Instrument 44-102 a fee of \$850.

9) Prospecting syndicate agreements

For every prospecting syndicate agreement filed, a fee of \$150.

10) Request to review decision of Executive Director

For every request to the Commission for a hearing and review under section 193(1) of the Act, a fee of \$300.

11) Applications for orders

- a) For every application to the Commission or Executive Director for an exemption order under the Act, rules, regulations, or policies, a fee of \$450;
- b) In addition to the fee in (a), for every application for an exemption order on an expedited basis, a fee of \$350.

12) Rights offering circular

For every rights offering circular filed under National Instrument 45-101, a fee of \$350.

13) Certificates

- a) For a certificate referred to in s 97(1) of the Act, a fee of \$50;
- b) For a certificate referred to in section 196(1) of the Act, a fee of \$50 plus \$1 per page photocopied;

14) Certified documents

For a decision, document, record or thing certified by the Commission, Executive Director, Secretary or other authorized official, a fee of \$50 plus \$1 per page photocopied.

15) Searches

For each on-site search, a fee of \$20 per search.

16) Photocopying

For photocopying, a fee of \$1 per page.

17) Take-over and issuer bids

- a) For every take-over bid or issuer bid circular, a fee of \$350;
- b) For every directors' circular, individual director's or officer's circular filed, a fee of \$100;

- c) For every notice of change or variation in respect of a take-over bid circular or issuer bid circular filed, a fee of \$100.

18) Late documents

For every document filed outside the prescribed time period, a fee of \$100.

19) No fee

No fee is required in respect of:

- a) A request for consent to the release of securities from, or the transfer of securities within, escrow;
- b) an application for amendment of registration as a salesperson of a registered dealer or as a partner or officer of a registered dealer or a registered adviser; and
- c) any matter which does not require the formal consent or approval of the Commission or the Executive Director.

20) All other applications and filings

- a) For every application to the Commission or the Executive Director for which a fee is not otherwise provided, a fee of \$350;
- b) For any other filing for which a fee is not otherwise provided, a fee of \$25.

21) Cost of compliance reviews

- a) For every compliance review under Section 167 or Section 169, a fee of \$50 per hour for each employee of the Commission involved in the review;
- b) For disbursements properly incurred by each employee of the Commission involved in the compliance review, the total amount disbursed.

22) Investigation costs.

For the cost of or related to an investigation by a person appointed under section 171 of the Act, a fee of:

- a) \$50 per hour per person for time spent on an investigation by any employee of the Commission;
- b) For disbursements properly incurred by any employee of the Commission for an investigation, the total amount disbursed;
- c) Fees paid to an expert, to a maximum of \$600 per hour for each expert engaged;
- d) For disbursements properly incurred by an expert retained by the Commission, the total amount disbursed.;
- e) Fees paid for legal services, to a maximum of \$400 per hour for each lawyer engaged;

- f) For disbursements properly incurred in connection with the provisions of legal services to the Commission, the total amount disbursed.

23) Hearing costs

Fees and charges for the costs of or related to a hearing are:

- a) \$2000 for each day or partial day of hearing;
- b) \$50 per hour for each employee of the Commission for time spent at a hearing;
- c) For disbursements properly incurred by any employee of the Commission for a hearing, the total amount disbursed;
- d) Fees paid to an expert or witness, to a maximum of \$600 per hour for each person involved;
- e) For disbursements properly incurred by an expert retained by the Commission, the total amount disbursed;
- f) Fees paid for legal services, to a maximum of \$400 per hour for each person involved;
- g) For disbursements properly incurred in connection with the provision of legal services to the Commission, the total amount disbursed.

24) Refunds

Where:

- a) an application for registration or renewal of registration is abandoned; or
- b) a preliminary prospectus or prospectus is withdrawn,

the Executive Director may, upon the application of the person who made the application or filed the preliminary prospectus or prospectus grant a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he considers fair and reasonable.

25) Discretionary fee reduction

If the Commission or the Executive Director considers it to be in the public interest, the Commission or the Executive Director may order that,

- a) the fees in either or both of sections.13 and 14
 - i) be varied by reducing the fee payable, or
 - ii) do not apply, or
- b) the fees in s.19, s.20 and s.21
 - i) be varied by reducing the fees and charges payable, or
 - ii) do not apply.

26) Incomplete or incorrect filings

If a record is filed with the Commission, the Executive Director or a self-regulatory organization recognized by the Commission and the record has not been completed in accordance with the Act or this regulation, the Commission, the Executive Director or the self-regulatory organization may return the record to the person by whom it has been filed, and a refund of the fee or any part of it paid upon the filing of the record must not be made unless the Commission, the Executive Director or the self-regulatory organization otherwise directs.

27) Effective date

This rule comes into effect July 1, 2004