Version 3

This confidential draft document is provided for discussion purposes only. It should not be construed as representing the position adopted by the Government of Ontario on any of the topics included or not included in this document. Any notes included in this document are intended only to help facilitate a discussion of the topics to which they relate.

A PROPOSAL TO CREATE REGULATION

made under the

ONTARIO FAIR HYDRO PLAN ACT, 2017

GENERAL

DEFINITIONS

Definitions

0.1xx In this Regulation,

"capital account" means an account established by or on behalf of a financing entity pursuant to a funding obligation for the purpose of accumulating funds to be used to make repayments [in respect of the funding obligation?] on expected payment dates, due dates or maturity dates;

"capital reserve deposit" means the amount [required or permitted?] under a funding obligation to be deposited into a capital account;

"capital reserve withdrawal" means the amount [required or permitted?] under a funding obligation to be withdrawn from a capital account;

"finance reserve account" means an account established by or on behalf of a financing entity pursuant to a funding obligation for the purposes of pre-funding, collateralizing, over-collateralizing or establishing reserves for the payment of the funding obligation or for related contingencies;

"finance reserve deposit" means the amount [required or permitted?] under a funding obligation to be deposited into a finance reserve account;

"finance reserve withdrawal" means the amount [required or permitted?] under a funding obligation to be withdrawn from a finance reserve account;

“funding cost” means any required payment of interest, commitment fees or other finance charge payable by or on behalf of a financing entity in respect of its funding obligations, including any up-front or periodic amount payable pursuant to a derivative entered into by or on behalf of the financing entity to hedge its related interest rate or currency exposures;

“recovery amount” means the aggregate of all amounts received by or on behalf of financing entities in respect of funding obligations, other than the proceeds of the issuance of funding obligations, [including any amounts received by or on behalf of the financing entity pursuant to any related interest rate, currency or other form of derivative agreement];

“redemption amount” means the amount payable by or on behalf of a financing entity to redeem, prepay or repurchase a funding obligation incurred by or on behalf of the financing entity, including any premium, make-whole or other additional amount becoming payable under the funding obligation to give effect to the redemption, prepayment or repurchase;

“refinancing amount” means the principal amount of a funding obligation incurred by or on behalf of a financing entity where the proceeds of the funding obligation are not paid to the IESO in respect of all or any portion of the purchase price of an investment interest;

“repayment” means the payment [by or on behalf of a financing entity?] or the provision for the payment of all or a portion of the principal amount advanced to the financing entity under a funding obligation, which may include payment of an amount payable on the termination, unwind or amendment of any related interest rate, currency or other form of derivative agreement;

“tax” means any tax, duty, fee, premium, assessment, impost, levy or other charge imposed by any governmental authority, including,

(a) an amount levied on […];

(b) an amount measured by […];

(c) an amount referred to as [...];

(d) any amount or charges under Part VI of the *Electricity Act, 1998*;

(e) any instalment in respect of an amount mentioned in clause (a), (b), (c) or (d); and

(f) any interest, penalty, fine, addition to tax or other amount imposed in respect of an amount mentioned in clause (a), (b), (c) or (d);

“tax liability” means all tax payable or paid by or on behalf of a financing entity incurred directly or indirectly by the financing entity or for which the financing entity is otherwise liable for as a result of its engagement in any activity authorized or permitted by the Act, including,

(a) activities related to a financing entity, including the creation, maintenance or reorganization of a financing entity,

(b) activities related to an investment interest and related assets and liabilities, including the acquisition, holding or disposition of an investment interest and activities relating to bank accounts to hold reserves and payments received,

(c) activities related to a funding obligation, including the incurrence, performance, redemption, repayment or disposition of a funding obligation, and

(d) activities related to an agreement, including the entering into, performance, enforcement, termination or disposition of an agreement in respect of interest rates or currency or any other form of derivative agreement;

"tax refund" means all amounts received by a financing entity as a refund of tax and to which the financing entity is entitled as a result of its engagement in any activity authorized or permitted by the Act, including activities described in clauses (a) to (d) of the definition of "tax liability";

Funding obligation

1xx. (1) For the purposes of the definition of "funding obligation" in subsection 1 (1) of the Act, a payment obligation in respect of any of the following types of amounts is also a funding obligation if it is incurred by a financing entity:

1. Any present and future interest, fees and other amounts owing in relation to a funding obligation.

2. Any amount, including an amount mentioned in paragraph 1, in relation to a refinancing.

3. Any amount payable under interest rate swaps or cross-currency swaps or other derivative agreements, including any bonds or loans to finance collateral obligations under the swaps or derivative agreements.

4. Any amount raised in a manner consistent with the Financing Plan for the purposes of a financing entity acquiring and financing an investment interest, including any amounts raised that also constitute, and are recoverable as, a finance amount.

(2) The types of amounts set out in paragraphs 1 to 4 of subsection (1) include both principal and interest in respect of the amounts.

Refinancing

1.1xx (1) For the purposes of the definition of "refinancing" in subsection 1 (1) of the Act, a refinancing includes the incurrence of a debt if the following criteria are met:

1. The debt is incurred no earlier than six months before the maturity date of a funding obligation.
2. If the proceeds of the debt are designated by the Financial Services Manager to repay the funding obligation mentioned in paragraph 1, the proceeds are applied as designated.

(2) For greater certainty, if the proceeds mentioned in paragraph 2 of subsection (1) cease to be applied as designated, the debt ceases to be a refinancing.

CLEAN ENERGY ADJUSTMENT

Specified consumers, unit sub-meter providers, s. 13 (6) of the Act

2xx. For the purposes of subsection 13 (6) of the Act, amounts in respect of the clean energy adjustment may be collected by the specified consumer as follows:

1. If an invoice for electricity is issued to a person by the specified consumer,
   i. the specified consumer may collect from the person the amount of the clean energy adjustment shown on the invoice, and
   ii. the specified consumer may, immediately upon receiving the amount from the person, provide the amount to the electricity vendor on behalf of the person.
2. If an invoice for electricity is issued to a person by a unit sub-meter provider providing unit sub-metering for a specified consumer,
   i. the unit sub-meter provider may collect from the person the amount of the clean energy adjustment shown on the invoice and provide the amount collected to the specified consumer, and
   ii. the specified consumer may, immediately upon receiving the amount from the unit sub-meter provider, provide the amount to the electricity vendor on behalf of the person.

Finance amount

3xx. (1) Subject to subsection (2), the finance amount in respect of a reference period shall be determined as follows:

1. After eliminating any duplication in the following amounts, calculate the sum of the following amounts in respect of the reference period:

   i. Amounts payable in respect of repayments.

   ii. Funding costs.

   iii. Redemption amounts.

   iv. Finance reserve deposits.

   v. Capital reserve deposits.

   vi. Expenses.

   vii. Tax liabilities.

2. After eliminating any duplication in the following amounts, calculate the sum of the following amounts in respect of the reference period:

   i. Capital reserve withdrawals.

   ii. Finance reserve withdrawals.

   iii. The amount paid to or for the benefit of financing entities [as a result of] funding rebates.

   iii. Recovery amounts.

   iv. Refinancing amounts.

   v. Tax refunds.

3. Subtract the sum calculated under paragraph 2 from the sum calculated under paragraph 1.

(2) The following rules apply with respect to the determination of the finance amount in respect of a reference period:

1. The determination shall be made by applying a cash basis accounting method.
2. OLC Note: I understand that there is a desire to create more certainty around what is meant by "cash basis accounting method". Our drafting practice is to strive for

precision and avoid redundancy. This is because courts may search for and find unintended meaning in language that seems on its face to be redundant/unnecessary. So if the descriptions set out in paras. 2, 3 and 4 are in fact redundant of what is meant by "cash basis accounting method", can we delete para. 1 and rely on paras. 2, 3 and 4? Are those rules be sufficient to convey the intended policy? If not, please explain what other aspects of "cash basis accounting method" need to be articulated.]

2. If the determination is in respect of a past reference period, the determination shall reflect cash amounts actually paid, deposited, received or made available in that reference period. OLC Note: Isn't this just a re-statement of what is described in para. 1 - e.g. isn't this just "cash basis accounting"?]

3. If the determination is in respect of a future reference period, the determination shall reflect the estimated cash amounts that will be paid, deposited, received or made available in that reference period.

4. If the determination is in respect of a partially completed reference period, the determination may reflect a combination of actual and expected cash finance amounts.

OLC Note: I'm not sure if paras. 3 and 4 also fall under the general description of "cash basis accounting method" and are also redundant of para. 1?]

5. Taxes payable to a governmental authority may be estimated in respect of the relevant tax reporting period of the governmental authority and allocated in respect of reference periods in such manner as [the FSM considers to be reasonable].

6. Taxes estimated and allocated as described in paragraph 5 shall be deemed to have been paid by a financing entity if the following conditions are met:

   i. The following amount, if any, is recognized as a tax refund in the reference period immediately following the reference period in which the actual amount of taxes was calculated in the tax return filed with a governmental authority: the amount by which the estimated taxes payable to the governmental authority in respect of the relevant tax reporting period exceeds the actual amount of taxes paid to the governmental authority in respect of the tax reporting period.

   ii. The following amount, if any, is recognized as a tax liability in respect of the reference period immediately following the reference period in which the actual amount of taxes was calculated in the tax return filed with the governmental authority: the amount by which the actual amount of taxes paid to the governmental authority in respect of the relevant tax reporting period exceeds the estimated taxes payable to the governmental authority in respect of the tax reporting period.

Determining true-up amount

4xx. (1) Unless all funding obligations and any additional finance amounts are paid in full, the Financial Services Manager shall comply with the following rules:

1. The Financial Services Manager shall calculate the true-up amount in respect of a reference period and notify the Board of its determination for each reference period in accordance with subsection 5xx (1).

2. If the Financial Services Manager reasonably forecasts that the collection of the clean energy adjustment will be insufficient to pay the estimated finance amount for a reference period in respect of which the Board has made a determination under subsection 15 (4) of the Act, the Financial Services Manager may at any time during the reference period re-determine the true-up amount in respect of the remaining portion of the reference period.

(2) The true-up amount in respect of a reference period may be determined, either before the reference period or at any point in time during the reference period, as follows:

$$T = (A - B) + C$$

Where,

T = the true-up amount in respect of the reference period,

A = the aggregate of the finance amounts in respect of all reference periods preceding the reference period and, if the determination is being made at a point in time during the reference period, in respect of the portion of the current reference period that precedes the point in time,

B = the aggregate of all amounts of the clean energy adjustment remitted by the IESO to or for the benefit of the investment interest owners during all reference periods preceding the reference period and, if the determination is being made at a point in time during the reference period, in respect of the portion of the current reference period that precedes the point in time,

C = any amounts to adjust for reasonably foreseeable differences between amounts to be invoiced in respect of the clean energy adjustment and the amounts to be remitted by the IESO to the investment interest owners in respect of the invoices due to various factors, including those mentioned in subparagraphs 2 ii and iii of subsection 15 (2) of the Act.

(3) The Financial Services Manager shall, when determining the amounts described in “C” in the formula set out in subsection (1), have regard to amounts due and payable that were not collected and any amounts in respect of which an overpayment was made, which may include

amounts resulting from a default of specified consumers, an electricity vendor or the IESO, whether in its capacity as an electricity vendor or its activities as agent or otherwise under section 16 or 17 of the Act.

(4) If the Financial Services Manager determines that an error in the determination of the clean energy adjustment in respect of a month or any other error relating to the clean energy adjustment requires correction, the Financial Services Manager may reflect the correction in a redetermination of the true-up amount under paragraph 2 of subsection (1) or may do so in the determination of the true-up amount in respect of the following reference period.

Notification to Board

5xx. (1) The Financial Services Manager shall notify the Board of the clean energy adjustment in respect of a reference period accordance with the following rules:

0.1 The notice shall be in respect of each month in the reference period or, in the case where a redetermination of the true-up amount has been made under paragraph 2 of subsection 3xx (1), the remaining portion of the reference period.

1. Until such time as all funding obligations and any additional finance amounts have been paid in full, the notification shall be provided,

    i. on or before April 1, in the case of a reference period that begins on May 1, and

    ii. on or before October 1, in the case of a reference period that begins on November 1.

2. In addition to complying with paragraph 1, after the scheduled final payment date in respect of the latest/last/final maturing funding obligation passes, the Financial Services Manager shall update its most recent determination of the clean energy adjustment and notify the Board of the updated determination on or before January 1 and July 1 in each calendar year, until such time as all funding obligations and any additional finance amounts have been paid in full.

(2) For the purposes of paragraph 2 of subsection (1),

(a) the notice provided on or before January 1 shall be in respect of the months of February, March and April in the same calendar year; and

(b) the notice provided on or before July 1 shall be in respect of the months of August, September and October in the same calendar year.

(3) For the purposes of this section, the scheduled final payment date in respect of a funding obligation is the date specified in the agreement relating to the funding obligation.

(4) If the Financial Services Manager re-determines the true-up amount in respect of a reference period under paragraph 2 of subsection 4xx (1), the Financial Services Manager shall recalculate the clean energy adjustment in respect of each of the months remaining in the reference period and notify the Board of the recalculated amount.

Board to determine rates, subs. 15 (4) of Act

6xx. (1) The Board shall, upon receiving a notice of the clean energy adjustment under section 5xx, determine the rates at which specified consumers are to be invoiced in respect of each month during the reference period, or in the case of a notice in respect of a redetermination of the clean energy adjustment, in respect of each remaining month in the reference period.

(1.1) The rates shall be expressed as a cent per kWh amount by dividing the clean energy adjustment in respect of a month by the forecasted electricity demand of specified consumers in respect of the month.

(2) For the purposes of subsection (1.1), the forecasted electricity demand of specified consumers in respect of a month shall be the forecasted demand as provided to the Board by the IESO.

(3) If notice of a determination is provided, the rate shall be determined by the Board so that the rate takes effect on the first day of the month following the month in which the notice was required to be provided.

(4) If notice of a redetermination is provided, the rate shall be determined by the Board so that the rate takes effect,

(a) if the notice was provided before the fifteenth day in a month, on the first day of the month following the month in which the notice was provided; or

(b) if the notice was provided on or after the fifteenth day in a month, on the first day of the second month following the month in which the notice was provided.

IESO to receive, remit amounts, s. 16 of the Act

7xx. (1) The IESO shall ensure that amounts actually received in respect of the clean energy adjustment under subsection 16 (1) of the Act are identifiable as such.

(2) For the purposes of subsection 16 (4) of the Act, the IESO shall remit the amounts in accordance with the requirements of the agreements relating to the sale of the investment interests to the financing entities and agreements relating to the funding obligations.

Electricity vendors to invoice, collect, s. 17 of the Act

8xx. (1) Each electricity vendor shall ensure that invoices issued to specified consumers include a separate line item for the amount in respect of the clean energy adjustment.

(2) Each electricity vendor shall ensure that amounts collected from specified consumers in respect of the clean energy adjustment are identified as such and deposited into an account established for the purposes of receiving those amounts.

(3) Each electricity vendor shall maintain separate records with respect to amounts invoiced to specified consumers in respect of clean energy adjustments and shall, subject to any requirements to the contrary related to confidentiality, make the records available, upon request, to the IESO, the Financial Services Manager, financing entities and investment interest owners.

FAIR ALLOCATION AMOUNT

Determination of clean energy benefits

8.1xx The prescribed period for the purposes of sub-subparagraph 1 ii B of subsection 20 (1) of the Act shall be the period beginning on [when] and ending on [when].

Headnote TBD

8.1.1xx (1) If the determination under paragraph 4 of subsection 20 (1) is a positive number, [the amount determined under paragraph 5 is to be the fair allocation amount for the reference period].

(2) If the sum of the amounts determined under paragraphs 1 and 2 of subsection 20 (1) is zero or less, [the amount determined by subtracting the amount determined under paragraph 3 from the amounts determined under paragraphs 1 and 2 would be included in the determination under paragraph 5].

Determination of estimated financing costs

8.2xx (1) For the purposes of paragraph 2 of subsection 20 (1) of the Act, the estimated financing costs in respect of a reference period shall consist of the following types of costs:

1. [estimated?] funding costs?

2. [estimated?] Expenses?

3. Estimated IESO deferrals?

4. Estimated funding rebates?

(2) Subject to subsection (4), the estimated financing costs in respect of a reference period shall be determined by calculating the sum of the costs set out in paragraphs 1 to 4 of subsection (1) that would become payable during the reference period, based on the following assumptions:

1. The entire amount of the regulatory asset is transferred over time in accordance with section 26 of the Act.

2. The principal owing by a financing entity during a reference period is repaid by applying funds expected to be available to it under the Financing Plan after all other expected finance amounts for the reference period have been paid or provided for.

(3) For the purposes of subsection 20 (2) of the Act, the prescribed circumstances are that [the determination under section 9 or 11 of the Act in respect of a reference period resulted in a readjustment amount].

(4) If the circumstances mentioned in subsection (3) apply, the Minister shall, in addition to calculating the sum of the costs set out in paragraphs 1 to 4 of subsection (1), calculate the following amounts and include them in the determination of the estimated financing costs in respect of the reference period:

1. A portion of past deferred clean energy costs that should be attributed to the reference period.

2. A portion of financing costs that should be attributed to the reference period.

(5) For the purposes of paragraph 1 of subsection (4), the Minister shall determine the portion that should be attributed to the reference period in such a manner as to ensure that past deferred clean energy costs are recovered proportionally over the remaining reference periods.

Calculation of fair allocation amount

9xx. For the purposes of subsection 20 (3) of the Act, the Minister shall have regard to the following matters:

1. Commodity prices.

2. Interest rates.

3. Inflation.

4. Population.

5. Consumption.

6. The useful life of assets.

FINANCIAL SERVICES MANAGER

Fees, subs. 19 (3) of the Act

10xx. (1) For the purposes of subsection 19 (3) of the Act, fees may be established and charged to financing entities in relation to the recovery of amounts in respect of the following matters:

1. The costs of services provided by the Financial Services Manager, which may include services related to planning, financing, negotiation and execution of agreements, front office services and administrative services.

2. The costs of doing anything that the Financial Services Manager is required or permitted to do under the Act.

(2) The fees mentioned in subsection (1) may provide for a fixed rate of return and a variable rate of return based on performance, both expressed as basis points of Ontario Power Generation Inc.'s investment in [a financing entity].

(3) The variable rate of return shall be capped at plus or minus one per cent of the amount of Ontario Power Generation Inc.'s investment in [a financing entity].

(4) In reviewing a fee proposed by the Financial Services Manager, the Board shall consider the following:

1. The methodology applied for determining the fee.

2. The methodology for benchmarking the variable rate of return provided by the fee.

3. The validity of all fixed components of the fee, including the remuneration and benefits of the staff of the Financial Services Manager.

4. The period of time during which the fee would be charged.

5. Such other matters as the Board may determine.

Board approval of fees, subs. 19 (4) of the Act

11xx. (1) The Financial Services Manager shall submit its methodology for determining proposed fees to the Board no later than August 31, 2017.

(2) The Financial Services Manager may at any time submit proposed amendments to its fees to the Board.

(3) If the Financial Services Manager submits proposed amendments, the proposed amendments shall be submitted no later than 90 days before the Financial Services Manager intends for the fees to be charged.

(4) The Board may approve the proposed fees or proposed amendments by order or may refer the proposal back to the Financial Services Manager for further consideration with the Board's recommendations.

FINANCING PLAN

Readjustment amount

11.1xx (1) For the purposes of section 21 of the Act and section 9.4xx of this Regulation,

"readjustment amount" means, in respect of a reference period, the amount determined by applying the following steps:

1. Determine the fair allocation amount, if any, determined by the Minister under subsection 20 (1) of the Act in respect of the reference period.

2. Determine the amount, if any, by which the estimated clean energy costs in respect of the reference period are [or are expected to be] reduced as a result of a determination of the Board under Part II of the Act.

3. Determine the amount, if any, by which the determination under paragraph 2 exceeds the determination under paragraph 1.

(2) For greater certainty, if an amount determined under paragraph 1, 2 or 3 of the definition of "readjustment amount" in subsection (1) is zero or less, the readjustment amount is zero.

Financing plan, principles and assumptions prescribed under subs. 21 (3) of the Act

12xx. (1) The Financial Services Manager shall make reasonable assumptions regarding the following matters in preparing the Financing Plan:

1. The IESO deferral for future months and the purchase price of investment interests.

2. Future transfers of specified portions of the regulatory asset.

3. The maturities, both short term and long term, of funding obligations.

4. Cash flow requirements to meet contractual obligations associated with funding obligations.

5. The future availability of refinancings and redemption opportunities.

6. Liquidity terms and conditions.

7. The future availability of currency and interest rate hedging facilities for the purposes of mitigating any differences between the estimated finance amount becoming due and payable during any reference period and the fair allocation amount determined in respect of the reference period.

8. Interest rates and financing costs related to interest rates.

9. Future availability of capital markets, including markets outside of Canada, in which funding obligations may be incurred.

10. Fees charged by the Financial Services Manager.

11. The credit ratings that are likely to be ascribed by rating agencies in respect of a funding obligation.

12. The need for and implementation of financing reserve accounts and sinking funds.

13. The basis on which any security in an investment interest may be given.

(2) In addition to the principles set out in subsection 21 (3) of the Act, the Financial Services Manager shall have regard to the following principles in preparing the Financing Plan:

1. Funding obligations shall be incurred on the best terms available at the time of incurrence for a financing transaction of the size and type contemplated by the Financing Plan.

2. The Financing Plan shall seek to create a stable platform to acquire and finance investment interests.

3. The Financing Plan shall specify the reference capital or finance markets in which the funding obligations are to be incurred, including markets outside Canada if considered by the Financial Services Manger to be appropriate in the circumstances.

4. The Financing Plan shall specify the basis upon which the Financial Services Manager is to select the currency of payments under the funding obligations and shall address measures to be taken to mitigate currency risk, including hedging transactions and adoption of minimum and maximum coverage levels, having regard to the availability of related derivatives with notional amounts corresponding to the repayment and maturity profile of the funding obligations.

5. The Financing Plan shall describe the basis upon which recovery amounts are to be applied.

6. Principal proceeds of a funding obligation must only be applied for the purposes of repaying or redeeming debt or for the purposes of paying the purchase price for investment interests.

7. The Financing Plan shall set out the basis upon which the Financial Services Manager is to select the interest rates for the incurrence of funding obligations.

8. Subject to subsection (2.1), the Financing Plan shall set out the basis upon which the Financial Services Manager is to select the term to maturity of funding obligations.

9. The Financing Plan shall address the need for refinancing.

10. The Financing Plan shall restrict the Financial Services Manager from making any election, including election to redeem any funding obligations, if the consequence would be that the clean energy adjustment would exceed the fair allocation amount MINUS the readjustment amount, if any, for a reference period.

11. The Financing Plan shall address the incurrence of funding obligations for the provision of any funds required for finance reserve deposits and capital reserve deposits.

12. Any funding obligation that by its terms may require a payment to become payable by the financing entity during a reference period shall limit the amount of the payment to a fixed or determinable amount, which amount shall be deemed to be a finance amount for the purposes of paragraph 1 of subsection 21 (3) of the Act.

13. The Financing Plan shall set out measures to realign costs and finance amounts as a result of any change in the calculation of fair allocation amounts.

14. The Financial Services Manager shall act as any reasonably prudent financial services manager would act in similar circumstances.

15. The Financing Plan shall describe the basis upon which the Financial Services Manager or its agent is to negotiate [in respect of?] and settle [in respect of?] finance amounts.

16. The Financing Plan shall describe the timing and basis upon which finance reserve deposits, capital reserve deposits, finance reserve withdrawals and capital reserve withdrawals may be made and shall balance the need to maintain reserves in order to

provide for marketable securities with the costs of holding such reserves, including on account of any potential income tax liabilities of the investment interest owners.

17. The Financing Plan shall describe the requirements applicable to any financing entity that is to purchase an investment interest, including proposed capitalization, governance and restrictions on their powers and activities, as well as structural considerations in order to minimize risk and costs, including any tax liabilities that may be recovered as finance amounts.

18. The Financing Plan shall describe the basis upon which fees, charges, expenses, costs, indemnities, reimbursements and other amounts payable to or for the benefit of the Financial Services Manager or agents and other service providers to the financing entities may be determined, allocated and paid.

19. Any contract to be entered into by the Financial Services Manager on behalf of a financing entity that provides for a payment to be made to or for the benefit of the Financial Services Manager or any person with whom the Financial Services Manager does not deal at arms' length shall demonstrably reflect on arms' length terms and conditions.

Rule, para 8 of sub(2),

(2.1) For the purposes of paragraph 8 of subsection (2), any repayments required to be made under the terms of a funding obligation shall not obligate any financing entity to repay an amount in relation to a reference period that would have the effect of the Financing Plan permitting incurrences of funding obligations payable in the reference period that would cause the clean energy adjustments for the reference period to exceed the fair allocation amount attributable to the reference period.

(3) The Financial Services Manager shall, no later than 90 days following the end of each fiscal year, submit to the Minister a report with respect to its affairs during the fiscal year, signed by the [xx] of the Financial Services Manager.

(4) Despite subsection (3), for the fiscal year commencing in 2017, the Financial Services Manager shall submit the report by such time as may be specified by the Minister, which time shall be on or after the 30th day following the end of the fiscal year.

THE REGULATORY ASSET

Determination of IESO deferral

12.1xx The IESO deferral for each month shall be determined as follows:

[To be completed]

Adjustments that may be recorded by IESO

12.2xx For the purposes of paragraph 3 of subsection 24 (1) of the Act, the IESO shall record the following adjustments in the variance account:

MISCELLANEOUS

Investment asset, s. 29

13xx. The prescribed accounts referred to in paragraph 3 of subsection 29 (1) of the Act are as follows:

1. Any specifically identified segregated account, regardless of the name in which the account is opened, if it is opened by the IESO or an electricity vendor and if amounts in respect of the clean energy adjustments are deposited into it.

2. Any accounts opened in the name of a financing entity by the Financial Services Manager.

Appointment of agent, invoicing or collection

14xx. For the purposes of subsection 33 (1) of the Act, the appointment may occur if the electricity vendor is unable or unwilling to perform its obligations under the Act, including if the electricity vendor becomes insolvent, bankrupt or enters into receivership.

Disclosure in marketing materials, offering documents, etc.

15xx. For the purposes of section 40 of the Act, a person may include the references in marketing materials or offering documents if,

(a) the inclusion is required by applicable law or is necessary for the purposes of any financing of funding obligations, including any requests for disclosure by rating agencies; or

(b) the Minister has been given written notice of the proposed inclusion of the references and has been given a reasonable opportunity to comment.

Commencement/Timing

x. This proposal for a Regulation, if approved, would come into force on the day it is filed with the Registrar of Regulations.