F. CONSENT FEES

This section addresses best practices with respect to compensation offered to bond holders in conjunction with amendment proposals and waiver requests, as well as the process related to such requests.

The two key principles underlying this policy are: the CBIA believes that all bondholders should be treated fairly and equally with respect to any change in the credit profile of an issuer or security; and, that all bondholders should have an equal opportunity to participate in consent related compensation and fees.

In addition, this policy addresses certain practices in the fixed income market, such as positive consent and early consent fees, which the CBIA believes are inconsistent with these principles.

The CBIA is firmly opposed to:

(a) "positive consent fee" arrangements, which are fees that are offered only to bond holders that vote in favour of a proposed amendment or waiver. The CBIA views such fees as coercive and totally inappropriate; and

(b) "early consent fee" arrangements, which are fees that are offered only to bond holders that indicate their support of a proposed amendment or waiver either prior to or shortly after a public consent solicitation is made to the full bond holder group, without the full bond holder group being afforded sufficient time and information to evaluate and respond to such request.

When crafting an amendment or waiver request, the CBIA recommends that issuers and their advisors consider two main factors in relation to compensation offered to bond holders:

(a) how much work may reasonably be required for the bond holders to consider the request and to obtain the necessary internal approval. This will be the primary basis for determining whether an amendment review fee is appropriate and how large that "amendment review fee" should be; and

(b) whether the amendment or requested changes result or are in response to a change in the credit quality of the bonds or issuer. This will be the primary basis for determining whether some type of "credit degradation compensation" is appropriate.

The CBIA recognizes that some requests are very straight-forward and require very little effort to evaluate by bond holders. In these cases, either no amendment review fee is required or a minimal amendment review fee would suffice. In other cases, substantial effort is required from bond holders and a more meaningful amendment review fee is appropriate. The CBIA also notes that issuers are reluctant to pay an amendment review fee to all bond holders (including those that do not respond to the request) and that an amendment review fee may therefore be viewed as an inducement to bond holders to evaluate the issuer's request and to formally respond. Therefore, the CBIA considers it appropriate for amendment review fees to be paid only to bond holders that formally respond to an amendment or waiver request (but not dependent on whether the bond holder votes in favour) where such request has been made to the full bond holder group and in respect of which all bond holders have been provided sufficient time to evaluate and respond; and that such fee be paid only if the request is approved by the requisite number of bond holders (even if modified from the issuer's original request).

Regarding "credit degradation compensation", the CBIA notes that such compensation may consist of some combination of an up-front fee and/or a change in the economic or other terms of the bond (e.g. increase in interest rate; addition of interest rate step-up provision; partial paydown; additional security; or other changes in terms). The CBIA firmly believes that if the issuer's request is approved/passed, such compensation or other improved terms must be given to all holders of the affected bonds.

From a best practices perspective, the CBIA recommends that issuers requesting amendments or waivers:

(a) provide sufficient time (example 30 days written notice) for all bond holders to evaluate and respond;

(b) ensure that appropriate information is made readily available to all bond holders (e.g. copies of indentures and supplemental indentures; black-lined versions of such documents to reflect proposed amendments; power point presentations; etc.) concurrently with such written request; and (c) make themselves and/or their advisors available to answer questions and take feedback from the bond holders.