



Ontario Commercialization
Investment Fund

Administrative Guidelines

**for Eligible Investments under the
OCIF Program**

Ministry of Research and Innovation

August 2006

Version française disponible.

The logo for the Ontario Commercialization Investment Fund (OCIF), consisting of the letters "OCIF" in a white serif font, centered within a light green square.

OCIF

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1.0

Introduction

This package provides all the information required to apply to the Ministry of Research and Innovation for an investment certificate under section 18.15 of the *Community Small Business Investments Funds Act* (the “Act”) confirming the eligibility of an investment or proposed investment by an Ontario Commercialization Investment Fund (“OCIF”) for an OCIF grant.

No information provided in this guide shall substitute for any provision under the Act and regulations.

Before proceeding, it is advisable to be familiar with the *Community Small Business Investment Funds Act*. Copies of this Act may be obtained from the Publications Ontario bookstore by calling 416-326-5300 or toll free in Ontario at 1-800-668-9938, or by accessing on line at www.gov.on.ca (click on publications and follow the appropriate links).

The OCIF program has been designed around three distinct elements.

1. Creation of an OCIF: The Ministry of Research and Innovation is responsible for the registration of Ontario institutions and investors to form an OCIF under section 18.13 of the Act.
2. Application for an Investment Certificate: The Ministry of Research and Innovation, with its links to the research institutions, is responsible for the processing of applications for an OCIF investment certificate to confirm whether a completed investment or proposed investment is eligible for an OCIF grant.
3. Application for an OCIF Grant: The Ministry of Research and Innovation is then responsible for issuing an OCIF grant to the OCIF and all auditing functions.

This guide explains the information required to process a complete application for an OCIF investment certificate under section 18.15 of the Act (Step 2).

Applicants for an OCIF investment certificate (Step 2) must make application to the:

**Ministry of Research and Innovation
Research and Commercialization Division
Economic Development and Innovation Directorate
56 Wellesley Street West, 11th Floor
Toronto ON M7A 2E7**

**Telephone: 416-325-6644
Fax: 416-326-9654**

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2.0

Overview of the Policy Intent of the Ontario Commercialization Investment Fund

Ontario needs to ensure that good ideas developed in the lab are brought into the market place.

Commercialization takes research one step closer to producing commercially viable products and services and ultimately building successful companies. Creation of high value jobs and economic growth will follow. Financing is needed at every stage of company development – from lab to marketplace.

The OCIF program is designed to provide capital for eligible investments at the very earliest stages of high-risk technology businesses, resulting from research at post-secondary institutions and research hospitals.

The Province of Ontario created this program to:

- Raise the profile of venture capital support for commercialization at Ontario research-based institutes;
- Encourage research institutes to partner with accredited investors in commercializing research developed by their faculty, staff and students; and,
- Encourage the investment of capital to support the growth and development of new entrepreneurial firms created as a result of research developed through these institutes.

The criteria for an “eligible business” and an “eligible investment” are described in section 3.2 of this guide.

An OCIF grant for eligible investments of 30 per cent (up to \$225,000 and the program’s funding limit of \$36 million) will encourage the private sector to continue to reinvest in Ontario companies and commercially viable research developed in Ontario. The OCIF program is intended to fill a critical point in very early stage risk capital finance and to support research-based company formation.

Each OCIF is likely to have a unique approach to financing investments.

3.0

Ontario Commercialization Investment Fund Certificate Application Process and Required Information for a Complete Application

Under section 18.15 of the Act, an OCIF must apply to the Ministry of Research and Innovation (“MRI”), Research and Commercialization Division for a certificate indicating that an investment that has been made, or is proposed to be made.

Once an application is received, the MRI staff will review the application to ensure the information is complete. MRI will issue an acknowledgement letter within 7 to 10 business days regarding the application. If the information is complete, the Ministry will review the application and confirm whether the investment or proposed investment is eligible within the next 10 to 15 business days.

The following information must be provided in order to process a complete application for an OCIF certificate. The application form has been divided into four sections:

- A. OCIF Information
- B. Information about the business in which the OCIF is investing
- C. Sponsoring institution(s) and researcher(s) information
- D. Declaration and certification

3.1 Section A - OCIF Information

The OCIF must provide MRI with key information regarding the OCIF name and registration number.

The OCIF must also provide its registered corporate address as well as key contact information. This information will assist in any questions or follow-up.

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3.2 Section B - Information about the Business in which the OCIF is Investing

The OCIF must provide baseline information on the new business created to commercialize the Ontario research, specifically:

- the Ontario Corporation Tax Number or the Federal Business Number (BN).
- the Corporation’s legal name and operating name.
- the Corporation’s corporate/email/mailing address, contact information and title, and telephone/fax number.

A key component of the OCIF program and corresponding legislation is an OCIF’s verification of the type of business activity being commercialized, information on the nature of the company and information on the type of investment the OCIF is making. The business must be an “eligible business” and the investment must be an “eligible investment”.

The criteria for determining the eligibility of the business or the investment is set out under Sections 18.11(2)(1) to (8) and paragraphs 18.11(4)(a) to (c) of the Act, extracts of which are attached as Appendix 1 and 2.

In order to determine if the business is an “eligible business” and the investment is an “eligible investment”, the applicant must provide the information set out below and as required in Questions 1, 2 and 3 of the application form. Applicants are encouraged to provide the necessary documentation to confirm the details regarding the nature of the investment/proposed investment, such as a copy of the business plan or other related documents.

Question 1: Type of Activity in which the Company is Engaged

At the time of initial investment by an OCIF, the corporation must be commencing activities as a new business and must be primarily engaged in or planning to be primarily engaged in one or more of the following activities:

- the research, development and construction of a prototype
- the development of a manufacturing process
- the implementation of a marketing or distribution strategy for a product
- a similar activity that is in respect of a service

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Question 2: Information on the Company

As the OCIF program is directed towards Ontario early stage research companies, the following criteria must be met:

- The corporation has a total revenue, determined in accordance with generally accepted accounting principles, of less than \$500,000 from the time of its incorporation until the time of the initial investment by an OCIF.
- The corporation was formed to exploit intellectual property developed by individuals who, at the time of the initial investment by an OCIF or within three years before the time of initial investment, are faculty, staff or students of a sponsor of the OCIF.
- During the period from January 1 of the year in which an initial or follow-on investment is made to the date of the particular investment, the corporation pays 50 per cent or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment of the corporation in Ontario.
- At the time of an initial or follow-on investment, at least 50 per cent of the corporation's full-time employees are employed in respect of eligible business activities carried on by the corporation in Ontario.
- At the time of initial investment by an OCIF, the value of the total tangible assets of the corporation, together with the total tangible assets of all related corporations and the total tangible assets of all partnerships in which the corporation or the related corporation is a member, does not exceed \$500,000.
- The corporation was incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act*.

Question 3: Information on the type of investment made/proposed to be made

Only certain forms of investments will qualify for an OCIF grant. The OCIF will be required to confirm that the investment or proposed investment **is or will be**:

- made before January 1, 2009 in a business that would be considered by MRI to be an eligible business, and
- the purchase from the business of shares issued by the business in exchange for a consideration paid in money, or
- the purchase of a warrant, option or right granted by the business, in conjunction with the issue of a share that is an eligible investment, to acquire a share of the eligible business.

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Adequate documentation will be required to confirm the above requirements.

In addition, applicants must confirm that the investment is **not** used, or intended to be used, by the business that would be considered by MRI to be an eligible business for the purpose of:

- relending.
- investment in land, except land that is incidental and ancillary to the activities in which the business is primarily engaged.
- re-investment or the acquisition of any securities of any person.
- financing the purchase or sale of goods or services provided to the business by or through a shareholder or partner in the OCIF or a person related to the shareholder or partner.
- the payment of dividends.
- the return of capital to a shareholder of the business or the payment of the principal amount of outstanding liabilities owing to a shareholder of the business.
- the payment of the principal amount of outstanding liabilities owing to shareholders of the OCIF or to persons related to its shareholders, or to partners of the OCIF or to persons related to its partners.
- carrying on a business primarily outside Ontario.

Questions 4, 5 and 6: Summary Information on the Investment and Business

Questions 4, 5 and 6 require an OCIF to outline whether there is a linkage between the certificate being applied for under this application and any other potentially related OCIF applications (Note: subsection 18.11(7) of the Act provides that two or more entities are related if they would be related under section 251 of the Income Tax Act (Canada) and eligible investments made by an OCIF are related if the eligible businesses in which the investments are made are related). This information is required because there is a legislated grant limit of \$225,000 regarding investments by one OCIF or a group of OCIFs in a single company or a group of related companies. In addition, applicants must outline the nature of the business being invested in, the commercial viability/application of the research, and the anticipated market for the product or service. Alternatively, applicants can attach the relevant sections of the business plan.

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3.3 Section C - Sponsoring Institution(s) and Researcher(s) Information

In the OCIF application form, MRI requires information regarding:

- the name of the institution
- a contact person at the institution that is aware of the researcher and the research being commercialized, such as the Departmental Dean, Vice President or Vice President of Research, including contact information.

In addition, the OCIF must indicate the name of the researcher who created the intellectual property being commercialized, that researcher's contact information and date the researcher was most recently affiliated with the research institution as a member of the faculty, staff or student. MRI also requires details of the intellectual property that is being commercialized and how the new business has secured the rights to the intellectual property (e.g. researcher is a Director of the newly formed company, agreement between business and researcher).

For ease of program administration, a copy of the agreement between the researcher and investee company can be attached, such as a term sheet (pre-deal) or contract (post-deal) or shareholder agreement. The agreement can outline the limit of the deal, the level of the investment, the form of investment (share, warrant) and the conditions on the investment.

MRI requires that the OCIF verify the accuracy of the above noted information.

3.4 Section D - Declaration and Certification

The final section of the application is a declaration by an officer, director or designated partner of the OCIF that the above noted information is complete and accurate.

The applicant must acknowledge that information and documentation provided to MRI in the application may be shared with the Ministry of Finance for the purposes of administering the OCIF program.

In addition, the applicant is required to indicate the level of investment by the OCIF, the date of the investment or proposed investment and the estimated level of OCIF grant. If the investment has already been made, proof of the OCIF's investment must be attached in the form of a cheque, certificate, etc.

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If the OCIF plans to request MRI approval of a certificate for multiple funding rounds over several years, the applicant must indicate whether this is a first investment or that the OCIF plans to make multiple or multi-year investments. For multi-year investments, a multi-year certificate can be provided.



4.0

Process to Issue a Grant, Conditions for an OCIF Grant and Other Program Enquiries

If MRI is satisfied that the criteria are met, it issues a certificate stating that the proposed investment is eligible, and specifies the amount of grant available under section 18.15. of the Act. A copy of the sample certificate is attached to the Guide.

MRI can revoke a certificate in circumstances where a submission/application contains false or inaccurate information.

Should an OCIF no longer intend to make the proposed investment, the OCIF should notify MRI of such a change. This information is needed to track the potential amount of grant that could be committed and to enable the OCIF to re-profile its current grant and corresponding certificate to other investment opportunities. If the investment is not made within 12 months from the date an investment certificate is issued, the certificate expires. This applies to all investments (first three or subsequent ones). Extensions to certificates may be provided if the OCIF can demonstrate a good business reason that the original deadline was not met. No grants can be processed after March 31, 2009. An OCIF can reapply to MRI for a new certificate should the 12-month period lapse. MRI will write to an OCIF to advise that the grant allocation has expired or that an extension was given.

Other General Program Information

When is a grant available?

No grant is available to an OCIF unless it has made at least three eligible investments, each of which is an investment in an eligible business that is not related to either of the other two eligible businesses.

What is the maximum grant available?

The total amount of grants available to one or more OCIFs in respect of eligible investments in a particular eligible business and all businesses related to the eligible business is \$225,000, once an OCIF has made three eligible investments.

4.0

Process to Issue
a Grant,
Conditions for
an OCIF Grant
and Other
Program
Enquiries

Program Enquiries

Ontario Commercialization Investment Fund corporations or partnerships may contact:

Ministry of Research and Innovation
Research and Commercialization Division
Economic Development and Innovation Directorate
56 Wellesley Street, 11th Floor
Toronto ON M7A 2E7

Or call 416-325-6644

Appendix 1

Eligible Business

In order to be an “eligible business” the criteria set out in Sections 18.11(2)(1) to (8) of the Community Small Business Investment Funds Act set out below must be met.

Eligible business

(2) A taxable Canadian corporation must meet the following criteria in order to be an eligible business in relation to an Ontario commercialization investment fund:

1. At the time of initial investment by an Ontario commercialization investment fund, the corporation must be commencing activities as a new business and must be primarily engaged in or planning to be primarily engaged in one or more of the following activities:
 - i. the research, development and construction of a prototype,
 - ii. the development of a manufacturing process,
 - iii. the implementation of a marketing or distribution strategy for a product, or
 - iv. a similar activity that is in respect of a service.
2. At the time of initial investment by an Ontario commercialization investment fund, the corporation has a reasonable expectation of profit.
3. The corporation has a total revenue determined in accordance with generally accepted accounting principles of less than the prescribed amount or, if no amount is prescribed, \$500,000 from the time of its incorporation until the time of the initial investment by an Ontario commercialization investment fund.

4. The corporation was formed to exploit intellectual property developed by individuals who, at the time of the initial investment by an Ontario commercialization investment fund or within three years before the time of initial investment, are faculty, staff or students of a sponsor of the Ontario commercialization investment fund.
5. During the period from January 1 of the year in which an initial or follow-on investment is made to the date of the particular investment, the corporation pays 50 per cent or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment of the corporation in Ontario.
6. At the time of an initial or follow-on investment, at least 50 per cent of the corporation's full-time employees are employed in respect of eligible business activities carried on by the corporation in Ontario.
7. At the time of initial investment by an Ontario commercialization investment fund, the value of the total tangible assets of the corporation, together with the total tangible assets of all related corporations and the total tangible assets of all partnerships in which the corporation or the related corporation is a member, does not exceed the prescribed amount or, if no amount is prescribed, \$500,000.
8. The corporation was incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act*, 2004, c. 31, Sched. 7, s. 9.

Appendix 2

Eligible Investment

In order to be an "eligible investment" the criteria set out in Sections 18.11(4)(a) to (c) of the the Community Small Business Investment Funds Act set out below must be met.

Eligible investment

(4) An investment made by an Ontario commercialization investment fund is an eligible investment for the purposes of this Part if,

- (a) the investment is made before January 1, 2009 in a business that is an eligible business when the investment is made;

- (b) the investment is,
 - (i) the purchase from the eligible business by the Ontario commercialization investment fund of shares issued by the eligible business in exchange for a consideration paid in money, or
 - (ii) the purchase of a warrant, option or right granted by the eligible business, in conjunction with the issue of a share that is an eligible investment, to acquire a share of the eligible business that would be an eligible investment if that share were issued at the time that the warrant, option or right was granted; and
- (c) the investment is not used or intended to be used by the eligible business for the purpose of,
 - (i) relending,
 - (ii) investment in land, except land that is incidental and ancillary to the eligible business activity or activities in which the eligible business is primarily engaged,
 - (iii) reinvestment or the acquisition of any securities of any person,
 - (iv) subject to subsection (5) or (6), financing the purchase or sale of goods or services provided to the eligible business by or through a shareholder of or partner in the Ontario commercialization investment fund or a person related to the shareholder or partner,
 - (v) the payment of dividends,
 - (vi) the return of capital to a shareholder of the eligible business or the payment of the principal amount of outstanding liabilities owing to a shareholder of the eligible business by the eligible business,
 - (vii) the payment of the principal amount of outstanding liabilities owing to shareholders of the Ontario commercialization investment fund or to persons related to its shareholders, or to partners of the Ontario commercialization investment fund or to persons related to its partners,
 - (viii) carrying on a business primarily outside Ontario, or
 - (ix) any prescribed purpose or use. 2004, c. 31, Sched. 7, s. 9.

Exception

(5) Subclause (4) (c) (iv) does not apply with respect to the purchase of goods or services from a shareholder or partner who is a sponsor of the corporation or from a person who is related to a shareholder or partner.



Ministry of
Research and
Innovation

Ontario Commercialization Investment Fund (OCIF)

Certificate for a Proposed Investment

under the *Community Small Business Investment Funds Act* (the "Act")

This is to certify
that, based on the
information provided by

Name of OCIF

Ministry of Finance
registration number

a proposed investment by the
above named fund

in the amount of _____ in the form of (eligible investment type under s 18.11.4)

in (the "Eligible Business")

Ontario Corporation
number

_____ is an eligible investment.

The Eligible Business intends
to further the intellectual
property developed by

Staff, faculty or student name

who worked or studied
within the past three
years at

Name of institution

The above named fund is
eligible for a grant

in the amount of _____
based on this investment.

If this investment plus
two additional eligible
investments, are not
made by

under s 18.16 of the
Act, this certificate
will expire on

MRI's decision regarding the issuance of a certificate is based on
information provided by the OCIF.

The OCIF is responsible for providing complete and accurate
information and documentation regarding the investment made or
proposed to be made. The information and documentation
provided by the OCIF in their application for an OCIF certificate
are subject to an audit by the Ministry of Finance.

Note – Under ss 18.15(6), an OCIF is only eligible for an OCIF
grant once it has made at least three eligible investments, each
of which is an investment in an eligible business that is not
related to either of the other two eligible businesses.

Certificate Number _____

Date _____

Director _____



Ministry of
Research and
Innovation

Ontario Commercialization Investment Fund (OCIF) Investment Certificate

under the *Community Small Business Investment Funds Act* (the "Act")

This is to certify
that, based on the
information provided by

Name of OCIF

Ministry of Finance
registration number

an investment by the above
named fund

made on

in the amount of

in the form of (eligible investment type under s 18.11.4)

in (the "Eligible Business")

Ontario Corporation
number

is an eligible investment.

The Eligible Business
furthered the intellectual
property developed by

Staff, faculty or student name

who worked or studied
within the past three
years at

Name of institution

The above named fund is
eligible for a grant

in the amount of
based on this investment.

If this investment plus
two additional eligible
investments, are not
made by

under s 18.16 of the
Act, this certificate
will expire on

MRI's decision regarding the issuance of a certificate is based on
information provided by the OCIF.

The OCIF is responsible for providing complete and accurate
information and documentation regarding the investment made or
proposed to be made. The information and documentation
provided by the OCIF in their application for an OCIF certificate
are subject to an audit by the Ministry of Finance.

Note – Under ss 18.15(6), an OCIF is only eligible for an OCIF
grant once it has made at least three eligible investments, each
of which is an investment in an eligible business that is not
related to either of the other two eligible businesses.

Certificate Number

Date

Director