June 6, 2001

Ontario Securities Commission
c/o John Stevenson, Secretary
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M4H 3S8

Re: OSC Notice 11-901 – Concept Proposal to revise Schedule 1 (Fees) to the Regulation to the *Securities Act* (Ontario)

This letter is submitted by Elliott & Page Limited in response to the request for comments issued on March 30, 2001 by the Ontario Securities Commission ("OSC") in respect of OSC Notice 11-901 – Concept Proposal to revise Schedule 1 (Fees) to the Regulation to the *Securities Act* (Ontario) (the "Concept Proposal"). Elliott & Page is registered as an investment counsel, portfolio manager and mutual fund dealer in the Province of Ontario and is registered as an investment counsel and portfolio manager in other provinces across Canada. As requested, this submission has been prepared in duplicate, and an e-mail attachment containing an electronic copy of this submission in Windows format has also been submitted.

Introduction

It appears that the assumption underlying the fee model in the Concept Proposal as it applies to investment managers is that the increase in Registrant fees resulting from the introduction of a participation fee is balanced by the reduction in activity fees for mutual fund filings. In our submission, however, this proposal would result in an unjustified increase in the cost of business for Registrants since the additional expense of a participation fee would fall on the Registrants whereas the immediate beneficiary of the reduction of fees for mutual funds would be the unit holders of the funds. It would be more appropriate to charge a participation fee for mutual funds that reflects the level of regulatory activity required for mutual funds. As well, it is our submission that gross revenue is not an appropriate measure on which to base the calculation of participation fees for Registrants. The use of gross revenue in the formula does not recognize the different sources of revenue that may be caught and their relationship to regulatory activity. This lack of distinguishing between revenues generated from mutual funds versus institutional funds in gross revenue may result in a larger proportionate amount of fees being allocated to those fund managers that include institutional funds in their business, as regulatory oversight of such funds require less OSC Staff time than is required for mutual funds.

Comments

Under the Concept Proposal, Elliott &Page would be required to pay an annual participation fee of $100,000 (based on 2000 gross revenues in Ontario), which represents a five-fold increase in the fees paid the previous year. This increase is solely attributable to the introduction of a participation fee. One of the stated purposes of the Concept Proposal is an overall reduction in fees. We believe there are two main reasons why the participation fee model does not meet the OSC's stated objective in the case of Elliott & Page and other investment managers that are similarly situated:

1. The corresponding reduction in activity fees occurs in mutual funds; and

2. Gross revenue includes revenue generated from the management of institutional funds, which impose little regulatory burden on OSC Staff.

1. The corresponding reduction in activity fees occurs in mutual funds.

As noted, investment companies such as Elliott & Page will be subject to a significant increase in fees through the introduction of the participation fee. Mutual funds themselves, however, will enjoy an immediate reduction in fees due to a significant reduction in activity fees charged to mutual funds. This raises the question of who will ultimately bear the cost of the increased participation fee. There is no ability of investment management companies to reduce the effect of the participation fee by raising management fees charged to their existing clients, given that management fees are fixed and require the client's approval to be increased, or in the case of mutual funds, the approval of the unit holders of each mutual fund.

However, a Registrant could adjust its fees for new clients and mutual funds to reflect the increased participation fee it must pay. Assuming this is the logical result, then in effect mutual funds and other clients will end up bearing this cost in the longer term, which is similar to the current model, although in the interim the burden on the Registrants will be disproportionate, as indicated above. In our view, we believe it would be more appropriate to charge a participation fee for mutual funds that reflects the level of regulatory activity required for mutual funds. Such regulatory activity is relatively standard for all mutual fund participants and should lend itself to a standard charge.

2. Gross revenue includes revenue generated from the management of institutional funds, which impose little regulatory burden on OSC Staff.

The Concept Proposal states that the participation fees for Registrants are designed to be a "largely all-inclusive fee to cover the cost of administration of regulation that relates to their regulated activities, business and operation, together with a proportionate share of the unallocated overhead costs of the OSC." For many investment managers, gross revenue would include revenue generated from regulated investment products such as mutual funds as well as non-regulated products such as the management of assets of large institutional clients ("Non-Regulated Funds"). In the case of Elliott & Page, over 50 per cent of its gross revenue is derived from Non-Regulated Funds. In fact, a significant portion of the Non-Regulated Funds are those managed on behalf of its parent corporation, Manulife Financial. However, unlike mutual funds, Non-Regulated Funds require little activity by OSC Staff (as there is no review process associated with these funds). Therefore, if participation fees are to reflect the time and services provided by OSC Staff, a calculation of gross revenue that captures and treats all revenue the same way is, in our view, an arbitrary measure of OSC Staff activity and consequently, is an inappropriate basis for the participation fee.

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We are pleased to have had this opportunity to review and comment on the Concept Proposal. If you have any questions or comments, please do not hesitate to contact the undersigned at (416) 581-3957.

Yours very truly,

Robert Weppler
General Counsel and Secretary
Elliott & Page Limited