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September 26, 2002

Mr. John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario
M5H 3S8

VIA COURIER

Dear Mr. Stevenson:

Re: Ontario Securities Commission Proposed Rule 13-502-Fees

AEGON Canada appreciates the opportunity to provide comments on behalf of certain of its subsidiaries with respect to Ontario Securities Commission (the "Commission") Proposed Rule 13-502-Fees (the "Proposed Rule").

AEGON Canada is the parent company of:

- a) AEGON Capital Management Inc., a registrant in the categories of Portfolio Manager, Investment Counsel and Limited Market Dealer ("ACMI");
- b) AEGON Dealer Services Canada Inc., a registrant mutual fund dealership and member of the MFDA ("ADSCI"); and
- c) AEGON Fund Management Inc., an unregistered investment fund manager which manages the imaxxFund family of mutual funds ("AFMI").

General Comments

We have, in preparing this letter, reviewed the comments of industry participants and the responses by OSC staff reported in the June 25th, 2002 Ontario Securities Commission Bulletin. Although we welcome and look forward to a reduction of overall fees charged to market participants and the streamlining of the fee schedules that the Proposed Rule represents, we feel it necessary to comment on several issues, including some already commented on by staff. Upon reviewing the industry concerns and staff responses, it would appear that very few, if any, concerns expressed by industry participants resulted in change(s) to the Proposed Rule. It appears that staff was quite unwilling to consider the views expressed by participants and that provisions of the rule were unchangeable. We have concerns about some parts of the Proposed Rule and feel it necessary to add our views to the discussion, notwithstanding the fact that some,

or portions, of our comments may have been raised previously. We hope that these concerns will be taken seriously and that our submissions assist OSC staff in reconsidering certain elements of the Proposed Rule.

Regulatory Burden Indirectly Imposed on Exempt Affiliates

The Proposed Rule indirectly imposes OSC fees on our exempt affiliate, Transamerica Life Canada, a federally-regulated life insurer, whose assets are managed by ACMI. Fees from this asset management for Transamerica Life account for more than 95% of the revenues of ACMI. We believe it is inappropriate to indirectly levy fees on this activity which would be exempt if conducted in-house by Transamerica Life.

The Proposed Rule appears to be saying to registrants who have exempt affiliates to move managed assets back within the exempt structures in order to avoid the fees by managing them in-house. It is our submission that this cannot be viewed as progressive regulation of the markets.

Tiering of Fees

We note the tiered fee schedule contained in Appendix B of the Proposed Rule. The tiers appear to be quite broad and there are several instances where a small jump in revenue by a participant (ie. from \$9.99 million to \$10.01 million) results in a 100% increase in the required fees (ie. \$25,000 to \$50,000). In addition, the tiered approach results in a situation where certain participants with significantly higher revenues (and therefore ability to pay) pay the same fee as participants who may have revenue that is almost 50% less. Although the tiered approach may result in a stable revenue stream for the OSC, it is not, we respectfully submit, equitable in its treatment of participants.

We note that it did not appear that much weight or consideration was given to previous commentators who had suggested a percentage-based set of tiers. Admittedly, revenues for the OSC may fluctuate more under such a regime, but we submit that the flat fees do not necessarily give the “stable” revenue that OSC staff indicated. Market fluctuations will cause participants to move above or below the gross revenue thresholds set out in Schedule B, reducing or increasing the revenues expected by the OSC. We also note that, in generally rising markets, over time, the OSC would benefit from bull market years, when presumably revenues will outpace the budgeted cost of regulation. The OSC should, it is our submission, be required to manage such surpluses prudently to cover the costs of regulation in weaker market years.

Fees High at Low End

It appears that smaller money managers will experience significant increases in their fees when the Proposed Rule is implemented. By way of example, ACMI paid approximately \$3-4,000 in regulatory fees last year. Under this proposal, the fee will jump to \$25,000. This is something in the order of an 800% increase. We submit that this is unreasonable.

Pricing/Inability to Pass Fees on to Funds

The Proposed Rule alters the fee structure that exists, either by contract or within a prospectus, between fund managers/portfolios managers and their clients.

The pricing of investment products is a very technical and competitive endeavour that incorporates regulatory fees and many costs into its determination. By increasing the fees for regulation but not permitting such an increase to be passed along to clients or unitholders, the OSC is upsetting delicate and fixed pricing already established and upon which corporate budgeting is based.

OSC staff indicated that “there is nothing to prevent fund managers from recouping participation fees by seeking unitholder approval to increase the management fees payable by investment funds”¹.

We disagree with this view. We respectfully submit that it is not a simple matter to seek unitholder approval to increase management fees or to renegotiate management fees with clients pursuant to account agreements. Unitholder meetings are expensive to conduct and result in increased costs to the fund manager and to the fund. Also, most unitholders will naturally be against any increase and private clients can refuse to re-open an investment management agreement to charge them higher management fees.

Conclusion

We would request that the OSC reconsider its position on the issues we have raised above. We appreciate the opportunity to provide our comments with respect to what we see as the weaknesses in what is otherwise a very welcome initiative.

Should you wish to discuss any of the points raised in this letter, please feel free to contact me at (416) 332-6649 or by email at Neil.Blue@aegoncanada.ca.

Yours truly,

Neil Blue
Assistant Vice President, Legal and Counsel

¹ 25 OSCB 4080, June 25, 2002