

7. OTHER CONSIDERATIONS AND RECOMMENDATIONS

- 7.1.1** Introduction. In addition to the recommendations set out in this Interim Report, the Consultants also make three additional recommendations, one of which is currently reflected in the proposed *SIA, 1995* and the draft by-laws included in this Interim Report. The first is with respect to an advisory committee. The second is with respect to the available penalties under the *SIA, 1995* and the by-laws. The third is with respect to fees.
- 7.1.2** Advisory Committee. The Consultants recommend that the TTSEC establish an advisory committee made up of market actors, reporting issuers, lawyers, accountants, investors and other persons who participate in the securities industry and marketplace in Trinidad and Tobago. The purpose of such a body would be to provide an on-going forum, which the Consultants suggest should meet periodically (e.g. on a quarterly basis), where the regulator can establish and continue a dialogue

with those affected by its activities. The advisory committee need not be statutorily mandated and its discussions and deliberations would be non-binding on the TTSEC. For market participants, the benefits would include having regular access to the TTSEC and its staff to discuss new by-laws, developing issues in the marketplace, and regulatory policy issues. For the TTSEC, the benefits would include obtaining the important views of the marketplace before formulating and implementing new by-laws or determining the enforcement and regulatory priorities of the TTSEC. Such an advisory body would be the natural extension of the consultation process which has been undertaken with the market participants as a part of this mandate. Similar consultative bodies are used in Canada, Hong Kong and elsewhere.

7.1.3 Penalties and Sanctions. Second, the Consultants recommend that the severity of the penalties which may be imposed under the *SIA, 1995* be increased. In light of recent scandals in securities markets worldwide, most notably in the United States, but elsewhere, there has been a general increase in the severity of penalties which attach to securities law violations. For example, in Ontario, the maximum fine for insider trading has recently been increased five fold from up to Cdn.\$1,000,000 to up to Cdn.\$5,000,000 and the potential prison time increased from up to two years to up to five years less one day. The Consultants note that no offence provision in the current *SIA, 1995* provides for prison time of greater than two years or a fine of greater than \$200,000. These should be re-examined (as should the penalties associated with individual offence provisions) taking into account international changes, the local marketplace, and any limitations imposed by the Constitution of Trinidad and Tobago. At present, the Consultants recommend that the maximum penalties be increased to \$400,000 (reflected in the proposed *SIA, 1995*) but no change in prison time.

7.1.4 Fee Schedule. Finally, the Consultants recommend that the TTSEC re-examine its fee schedule in light of the recommendations presented in this Interim Report and the new documentary filings. The determination of fees is, however, largely a local matter, based on prevailing conditions in the local marketplace. Accordingly, no specific recommendations are made and the fees included in the General By-Law should be considered illustrative at this point.

8. CONCLUSION

8.1.1 Completion of Second Phase of the Mandate. This Interim Report marks the completion of the second phase of the mandate granted to Stikeman Elliott LLP to review the regulation of the securities marketplace in Trinidad and Tobago. The Consultants hope that the detailed commentary accompanying the proposed *SIA, 1995*, the proposed General By-Law, the proposed Prospectus By-Law and the proposed CIS By-Law will provide the TTSEC and market participants with significant points to discuss and consider as the process of modernizing the securities regulatory environment advances to the next stage.

- 8.1.2** Additional Consultative Meetings. The Consultants plan to meet with the TTSEC and its staff to discuss this report and to spend the necessary time to discuss the detailed recommendations and their underlying rationale. It is recommended that the TTSEC again invite market participants to comment on this Interim Report and to continue the useful dialogue with the industry that has helped to form the recommendations made in this report. We suggest a two day public forum during which presentations would be made by the Consultants and the staff of the TTSEC on the proposed amendments, and market participants would be given an opportunity to make comments and to ask questions. This seminar should be held after market participants have been given a period of time to review and digest the detailed comments in this Interim Report. The Consultants suggest that all written comments be made publicly available unless confidentiality is requested by the commentator.
- 8.1.3** Final Report. Following this process, the Consultants will produce the Final Report which would include final recommendations for a revised *SIA, 1995*, the Prospectus By-Law, the CIS By-Law and the General By-Law.