Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8
416.362.2111 MAIN
416.862.6666 FACSIMILE

OSLER

Toronto
Montréal
Calgary
Ottawa
New York

September 30, 2010

SENT BY ELECTRONIC MAIL

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H3S8
jstevenson@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec H4Z 1G3
consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

Proposed Amendments to National Instrument 31-103 (NI 31-103), National Instrument 33-109 (NI 33-109) and Ontario Securities Commission Rule 33-506 (OSC Rule 33-506)

This letter is provided to you in response to the Notice and Request for Comments – Proposed Amendments to NI 31-103, NI 33-109 and OSC Rule 33-506 published at (2010) 33 OSCB (Supp-2). Defined terms used in the Notice and Request for Comments will be similarly used in this letter.

1. **Proposed amendment to Section 4.1(1)(b)**

We disagree with the proposed amendment to add subparagraph (1)(b) to Section 4.1. There are a number of registered firms with existing business models that rely on the firm's representatives being registered with multiple affiliated firms. We believe that the case for this business model, which has been permitted in the past, remains relevant to many registrants. The Companion Policy states that exemption applications will be considered for individuals on a case by case basis. If the proposed addition of subparagraph (1)(b) to Section 4.1 is adopted, the Companion Policy should also provide that omnibus exemption applications for relief from Section 4.1 will be considered for registered firms that propose, in accordance with their business models, to put in place a system to register multiple representatives with multiple affiliated firms. In addition, the Companion Policy should provide that exemption applications for relief from the restriction in subparagraph (1)(a) of Section 4.1 will be considered, as there may be valid business reasons for permitting an individual registered as a dealing, advising or associate advising representative of a registered firm to act as an officer, partner or director of another registered firm that is not an affiliate of the first-mentioned registered firm.

2. **Proposed amendments to Section 8.18**

Section 8.18(2)

We disagree with the proposal to remove sub-paragraphs (e) and (f) from Section 8.18(2) on the basis of the belief, as set forth in the Notice, that these sub-paragraphs are redundant. Sub-paragraphs (b), (c) and (d) of Section 8.18(2) all impose restrictions on trading activities with permitted clients that do not currently exist in the trading activities permitted with investment dealers under sub-paragraphs (e) and (f) of Section 8.18(2). For example, if the proposed amendments are made, a trade in a Canadian debt security to an investment dealer acting as principal will no longer be permitted unless the debt security is offered primarily in a foreign jurisdiction (per sub-paragraph (b)). As well, a trade to an investment dealer in a foreign debt security will be restricted if the foreign debt security is in distribution (per sub-paragraph (c)). In our view, if there is a provision in Section 8.18(2) that is redundant, it is sub-paragraph (c), given that sub-paragraph (d) deals with trading in foreign securities generally.

Section 8.18(3)

The Notice states that there is a proposed amendment to Section 8.18(3)(d) to clarify the Canadian residency requirements for permitted clients. We disagree with the intention of the proposed amendment, because it suggests that there may

be permitted clients not resident in Canada, when in fact the definition of "permitted client", and the use of the international dealer exemption, are irrelevant when a firm that relies on the international dealer exemption for its Canadian activities provides services to client who are not resident in Canada. Furthermore, we believe that the drafting for the proposed revision in Section 8.18(3) does not match the intentions behind the revision to that section described in the Notice. We believe the amendment to add the "in Canada" requirement should be made in Section 8.18(2), which reflects the permitted activities, and not in Section 8.18(3)(2), which reflect the other side of the trade. A similar comment applies to the corresponding changes proposed for Section 8.26.

3. **Section 8.26 of Companion Policy**

We disagree with the example provided under the heading "Incidental Advice on Canadian Securities" in Section 8.26 of the Companion Policy. The security issued by the foreign investment fund that is alluded to in the example is not a Canadian security, regardless of whether a portion of the investment fund may be made up of Canadian securities. There is no concern regarding incidental advice when an international adviser advises a Canadian client on securities of a foreign investment fund (leaving aside an avoidance transaction such as where a foreign special purpose vehicle has been created for the purpose of managing a portfolio of Canadian securities for a Canadian client).

We suggest a different example be used in this section of the Companion Policy. For instance, a suitable example could be that an international adviser, when advising on a portfolio with a particular investment objective, such as gold mining companies, may advise on a security of a Canadian gold mining company within that portfolio, provided that the portfolio is otherwise made up of foreign securities. Another example of permissible incidental advice could arise if a firm has a mandate to advise on equities traded on European exchanges where one of the issuers that trades on a European exchange, and is part of the mandate, is a Canadian corporation.

4. **Other Comments**

In addition to the comments above, we would note that the following matters have not been addressed in the proposed amendments and recommend that they be addressed:

(a) Incidental trading for the international dealer exemption. The rationale for enabling a firm relying on the international adviser exemption to advise on Canadian securities where that advice is incidental to advising on foreign securities also applies to firms relying on the international dealer

exemption who may need to trade a Canadian security where such trade is incidental to trading foreign securities, e.g. where the international dealer is the prime broker for an international adviser relying on the exemption.

(b) We note that the sub-adviser exemption continues to be permitted in Ontario pursuant to OSC Rule 35-502 and in Quebec pursuant to a discretionary order of the AMF, and yet it has not been adopted in NI 31-103. We encourage the CSA to include a sub-adviser exemption in this set of amendments.

We thank you for the opportunity to provide our comments on the proposed amendments. If you have any questions or comments please contact Mark DesLauriers at 416-862-6709 or Blair Wiley at 416-862-5989.

Yours very truly,

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP