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December 16, 2014

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto ON M5H 3S8

Via email to [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

**Re: Response to Ontario Securities Commission (“OSC”) Notice and Request for Comment re Proposed Amendments to OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees (“OSC Rule 13-502”) Published on September 18, 2014**

Dear Sirs/Mesdames:

AUM Law is a corporate and securities law firm providing regulatory compliance, fund formation, corporate finance and corporate secretarial services. Our approach is to deliver the most practical, forward-thinking advice and services to our clients, who primarily consist of portfolio managers, investment dealers, hedge funds, and private and public companies. The comments in this letter regarding the recently published proposed amendments to OSC Rule 13-502 reflect issues that directly impact the registrants we service. Though this letter represents the views of Erez Blumberger, Adam Braun and Jennifer Lee who are lawyers at AUM Law, this letter represents our personal views and not the views of AUM Law and is submitted without prejudice to any position that has or may in the future be taken by AUM Law on its behalf or on behalf of its clients.

With regard to the proposed amendments, we have the following questions and comments.

### **1. New Activity Fee for Permitted Individuals**

We understand that the OSC is seeking to introduce an activity fee of \$100 when permitted individuals file Form 33-109F4 – *Registration of Individuals and Review of Permitted Individuals* (“**Form 33-109F4**”).

We ask the OSC to clarify whether it will impose the new activity fee for individuals seeking approval as a permitted individual concurrently with an application for a registration category that already involves an activity fee. For example, if an individual applies for approval as a permitted individual and concurrently applies for registration as an advising representative, which currently involves an application fee of \$200, will the individual be charged an aggregate of \$300?

### **2. Refund Request**

The OSC has proposed an amendment imposing a time limit of 90 days in respect of applying for refunds. We suggest that the time limit be 120 days. Under OSC Rule 13-502, we understand that refunds are only granted with respect to participation fees in the case of overpayment or incorrect calculations. However, any errors in calculations are typically caught when registered firms complete their annual audit. For firms with a calendar year-end, such errors will likely be identified in late March when the firm completes its annual audit in advance of the financial statements filing

deadline of March 31. We submit that a 120 day period is a more realistic timeline in light of the audit process for firms with calendar year-ends.

### 3. Late Fees

We would like to take this opportunity to seek clarity from the OSC regarding the circumstances in which late fees are reduced or waived. Currently, late fees are typically processed through the National Registration Database (NRD) and the particulars of reductions and waivers are not publicly available. We believe that bringing more transparency to this process will result in enhanced efficiencies for both the OSC and the industry because firms could access precedent situations and more accurately base any request for reduction or waiver of late fees to staff, thereby streamlining the iterative process and the time taken to finalize any late fees or waivers.

Similar to our response letter dated March 4, 2014 to the Canadian Securities Administrators' notice and request for comment regarding the proposed amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (particularly with respect to enhancing transparency of exemptive relief decisions regarding proficiency requirements), we are proposing that decisions relating to late fees be issued in real time by, for example, posting a notice on a section of the regulator(s) website detailing the facts of a particular situation (this could be on a no-names basis), and the disposition made by staff. Like an exemptive relief order or ruling, a draft of the website notice could be prepared by the registered firm and submitted as part of the request for fee reduction or waiver. Accordingly, this process would not significantly increase staff time, other than the time necessary to review the notice and place it on the site (perhaps weekly or monthly). Decisions to not provide a late fee reduction or waiver would ideally also be made publicly available on similar timing or perhaps in the annual CRR report, if doing so more frequently is too cumbersome.

### 4. Form of CCO Report

Assuming that the OSC proceeds to revise the certification requirement for certain participation fees to require Chief Compliance Officer (or equivalent) sign-off rather than management sign-off, we trust that the certification forms will be revised to clearly reflect the role of the certifying individual. For example, we would expect the forms of certification to be entitled "Chief Compliance Officer Certification" rather than "Management Certification".

Sincerely,



**Erez Blumberger**  
Chief Regulatory Counsel

Cc: Jennifer Lee, AUM Law  
Adam Braun, AUM Law