



**ASC NOTICE AND REQUEST FOR COMMENT
PROPOSED MULTILATERAL INSTRUMENT 45-108
*CROWDFUNDING***

July 26, 2016

Introduction

The Alberta Securities Commission (**ASC**) is moving forward with two initiatives designed to facilitate capital-raising for small- and medium-sized enterprises on terms tailored to deliver appropriate safeguards for investors.

The ASC is publishing for a 30-day comment period the following:

- proposed Multilateral Instrument 45-108 *Crowdfunding*, including
 - proposed Form 45-108F1 *Crowdfunding Offering Document*;
 - proposed Form 45-108F2 *Risk Acknowledgement*;
 - proposed Form 45-108F3 *Confirmation of Investment Limits*;
 - proposed Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information*;
 - proposed Companion Policy 45-108 *Crowdfunding*;
- (collectively **MI 45-108**); and
- proposed amendments to Alberta Securities Commission Rule 45-517 *Prospectus Exemption for Start-up Businesses* (**ASC Rule 45-517**);
 - proposed changes to Alberta Securities Commission Companion Policy 45-517 *Prospectus Exemption for Start-up Businesses*;
 - proposed amendments to National Instrument 45-102 *Resale of Securities* (**NI 45-102**); and
 - proposed amendments to National Instrument 13-101 *SEDAR* (**NI 13-101**);
- (collectively, the **Proposed Consequential Amendments**).

The text of proposed MI 45-108 and the Proposed Consequential Amendments are contained in Annexes A through J of this notice.

To facilitate multijurisdictional crowdfunding offerings, the ASC is proposing to adopt MI 45-108. MI 45-108 provides a prospectus exemption designed to accommodate moderate financing requirements being raised through an online funding portal registered as an investment dealer, an exempt market dealer, or alternatively as a “restricted dealer funding portal”.

To facilitate financings by small or start-up issuers with very modest capital raising requirements, the ASC has implemented ASC Rule 45-517. ASC Rule 45-517 is available immediately and provides a prospectus exemption that can be used with or without a funding portal or other registered dealer. ASC Rule 45-517 is available to Alberta issuers raising funds from Alberta investors. Details of ASC Rule 45-517 are outlined in a separate notice published today.

Background

MI 45-108 was adopted in each of Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia effective January 25, 2016. The feedback, both formal and informal, in respect of proposed ASC Rule 45-517 *Prospectus Exemption for Start-up Businesses* (published for comment as Multilateral Instrument 45-109 *Prospectus Exemption for Start-up Businesses*) argued strongly in support of adopting MI 45-108.

MI 45-108 enables start-up businesses and small and medium-sized enterprises in their early-stages of development to raise capital online, across multiple jurisdictions of Canada, from a large number of investors through a single registered funding portal. Limits on the total amount that can be raised and the amount that can be raised from any one investor are imposed on issuers as a means of limiting investment exposure.

We believe the introduction of MI 45-108 in Alberta could provide an important avenue for small businesses seeking to raise capital across Canada. The regime is intended to address previous concerns from small businesses and early-stage companies who were facing difficulties accessing capital from investors across Canada in a cost-effective and harmonized manner.

Substance of MI 45-108

The framework of MI 45-108 consists of two parts:

- a prospectus exemption, and
- a requirement that the distribution be conducted through a funding portal that is registered as either a “registered dealer funding portal” or a “restricted dealer funding portal”.

There are certain restrictions in MI 45-108 which are applicable only in certain jurisdictions. For example, in Ontario annual investor investment limits apply whereas in certain of the other

jurisdictions that have adopted MI 45-108 the annual investment limits do not apply. Generally, we have proposed to align with the approach in Ontario. The additional restrictions appear to address investor protection concerns such as those raised in the feedback we received in connection with the publication for comment of ASC Rule 45-517.

Prospectus exemption

The key elements of the prospectus exemption included in MI 45-108 are outlined in the table below.

Element of exemption	Details
Issuer restrictions	
Qualification criteria	<ul style="list-style-type: none"> • Available to reporting issuers and non-reporting issuers • The issuer and its parent, if applicable, must be organized in a jurisdiction of Canada (a U.S. operating subsidiary is acceptable) • The head office must be situated in Canada • Majority of directors must be resident of Canada • Not available to investment funds
Distribution details	
Types of securities	<ul style="list-style-type: none"> • Limited to distributions by an issuer of securities of its own issue • Limited types of securities can be offered: <ul style="list-style-type: none"> ○ common shares ○ non-convertible preference shares ○ securities convertible into common shares or non-convertible preference shares ○ non-convertible debt security linked to a fixed or floating interest rate ○ units of a limited partnership ○ flow-through shares under the <i>Income Tax Act</i> (Canada)
Offering parameters	<ul style="list-style-type: none"> • The total proceeds raised by the issuer group in reliance on MI 45-108 cannot exceed \$1,500,000 within a 12-month period • MI 45-108 is not available if the proceeds are being used to invest in, merge with, or acquire an unspecified business. • MI 45-108 is not available if the issuer is in default of its ongoing disclosure obligations • Offering cannot remain open for more than 90 days and the offering cannot close if the minimum subscription has not been raised • Offering document must disclose minimum offering size and whether there is a maximum offering size
Restrictions on solicitation and advertising	<ul style="list-style-type: none"> • The issuer, portal or any other person involved with the offering cannot advertise the offering or solicit purchasers other than as specifically allowed

Investor protection measures	
Investment limits	<ul style="list-style-type: none"> • If a purchaser is not an accredited investor, the issuer cannot accept a subscription of more than \$2,500 per distribution from that purchaser (and in Alberta and Ontario, not more than \$10,000 in all distributions under MI 45-108 in a calendar year) • If a purchaser is an accredited investor (but not a permitted client), the issuer cannot accept a subscription of more than \$25,000 per distribution from that purchaser (and in Alberta and Ontario, not more than \$50,000 in all distributions under MI 45-108 in a calendar year) • Money cannot be loaned to investors to invest under MI 45-108
Risk acknowledgment form	<ul style="list-style-type: none"> • Investors must complete a risk acknowledgment form requiring them to positively confirm having read and understood the risk warnings and information in the crowdfunding offering document before they can enter into an agreement to purchase securities
Offering document	<ul style="list-style-type: none"> • Issuers are required to prepare an offering document that includes basic information about the offering, the issuer and the portal • The offering document includes a requirement for financial statements as follows: <ul style="list-style-type: none"> ○ Financial statements approved by management where the issuer raises no more than \$250,000 under <i>any</i> prospectus exemptions ○ Financial statements approved by management and accompanied by a review report where the issuer has raised between \$250,000 and \$750,000 under <i>any</i> prospectus exemptions ○ Where the issuer has raised more than \$750,000 under <i>any</i> prospectus exemptions, financial statements must be approved by management and also be accompanied by an auditor's report
Statutory or contractual rights in the event of a misrepresentation	<ul style="list-style-type: none"> • In the case of reporting issuers, the offering document will be designated to be an offering memorandum such that a 2 day right of withdrawal and, in the event of a misrepresentation, an action for damages (or rescission, as applicable) applies • In the case of non-reporting issuers, a contractual right of action against the issuer for rescission and damages in the event of an untrue statement of a material fact included in any of the materials made available to the purchaser
Two day right of withdrawal	<ul style="list-style-type: none"> • Investors have 48 hours after the date of the agreement to purchase any securities, and subsequent to any amendment of the offering document, to withdraw
Resale restrictions	<ul style="list-style-type: none"> • Securities of a reporting issuer are subject to a four-month hold period • Securities of a non-reporting issuer are subject to an indefinite hold period and can only be resold under another prospectus

	exemption or under a prospectus
Ongoing disclosure	<ul style="list-style-type: none"> • Reporting issuers must comply with continuous disclosure obligations under applicable securities laws • Non-reporting issuers must provide investors annual financial statements and an annual statement of use of proceeds • In some jurisdictions, <i>not including Alberta</i>, notices of significant events are required
Reporting	
Report of exempt distribution	<ul style="list-style-type: none"> • Form 45-106F1 <i>Report of Exempt Distribution</i> must be prepared and filed within 10 days of the closing of the distribution

Portal requirements

Issuers can only distribute securities under MI 45-108 through a single funding portal that is registered as an investment dealer or exempt market dealer i.e., a “registered dealer funding portal” or as a restricted dealer, i.e., a “restricted dealer funding portal”. A restricted dealer funding portal is subject to many of the same requirements as an exempt market dealer or investment dealer; however, significantly, they are not required to conduct transaction-specific suitability assessments for investors and are not required to assess the merits or expected returns of an investment.¹

All funding portals will be required to provide certain gatekeeper functions as described below.

- Funding portals cannot advertise a distribution or solicit purchasers and they may only make available to purchasers certain prescribed materials.
- Funding portals must ensure that information about an issuer and their distribution is presented and displayed in a fair, balanced and reasonable manner.
- Funding portals are prohibited from offering securities of a related issuer.
- A funding portal must enter into an access agreement with all issuers proposing to use its platform requiring, among other things, that the issuer agrees to comply with the portal’s policies and agrees not to make promotional or misleading statements.
- Funding portals must obtain personal information forms from directors, executive officers and promoters of an issuer and conduct background checks on the issuer and those individuals.

¹ Restricted dealer funding portals do not have to comply with certain requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* including proficiency requirements in Part 3, certain books and records requirements in Part 11, dispute resolution service requirements in section 13.16, certain relation disclosure information requirements in section 14.2(2), and all handling client account requirements in Part 14 except the requirement to provide trade confirmations pursuant to section 14.14.

- For each issuer offering securities through a funding portal, the funding portal must review the offering document and other offering materials, as well as the results of background checks and any other information of which it has become aware. If it appears that any information is incorrect, incomplete or misleading the funding portal must require that the issuer correct, complete or clarify the disclosure before posting the same on the funding portal's online platform.
- A funding portal must not allow an issuer access to its online platform for the purposes of a distribution if:
 - after reviewing the information about the issuer or the distribution, the funding portal makes a good faith determination that:
 - the business of the issuer may not be conducted with integrity because of the past conduct of the issuer or any of the issuer's directors, executive officers, or promoters,
 - the issuer is not complying with its obligations under MI 45-108, or
 - the disclosure in the offering document and other offering materials contain a statement or information that constitutes a misrepresentation or an untrue statement of a material fact, or
 - the issuer or any of its directors, executive officers or promoters is guilty of an offence related to or has entered into a settlement agreement in a matter involving fraud or a securities violation.
- A funding portal must promptly return funds if a distribution is terminated and must then remove the offering materials from its site.
- A funding portal must monitor any "chatroom" communications on its site for any statements by the issuer inconsistent with the offering document.
- In addition to the risk acknowledgement required prior to a purchase, the funding portal is required to provide a risk warning before allowing an investor access to the portal.
- In addition to the requirement on an issuer to file a report of exempt distribution, funding portals are required to file a report twice per year reporting both on distributions conducted through it and on issuers denied access.

Registered dealer funding portal

In addition to the requirements applicable to all funding portals, a registered dealer funding portal will need to comply with all of the requirements applicable to their registration category,

including steps necessary to comply with their know-your-product (**KYP**) and know-your-client (**KYC**) obligations.

Restricted dealer funding portal

In addition to the obligations for all funding portals, a restricted dealer funding portal will be subject to various other obligations. Some of the key requirements are as follows:

- a requirement to deal fairly, honestly and in good faith with purchasers;
- a prohibition on referral arrangements (except to compensate a 3rd party for referring an issuer to the funding portal);
- a requirement to establish the identity of, and to conduct due diligence on their clients under the general KYC obligation set out in section 13.2 of NI 31-103 (but not the transaction-specific KYP, KYC and suitability analysis under paragraphs 13.2(2)(c) and (d) and subsection 13.2(6) [*Know your client*] or section 13.3 [*Suitability*]);
- an individual of a restricted dealer funding portal who performs any activity in connection with an MI 45-108 distribution is required to have the education, training and experience, among other things, to understand the structure, features and risks of the distribution; and
- a portal must have a chief compliance officer that meets certain minimum specified proficiency requirements.

Consequential amendments

In the event MI 45-108 is adopted as a rule in Alberta, we propose to amend ASC Rule 45-517 to allow a distribution under ASC Rule 45-517 to be facilitated by a restricted dealer funding portal complying with specified requirements of Division 1 and Division 3 of MI 45-108.

Investors purchasing through such a dealer would be subject to the lower \$1,500 investment limits as they would not receive positive suitability advice from a registered dealer. We believe this would address the feedback we received in respect of the registration requirement in connection with use of ASC Rule 45-517 while still addressing investor protection appropriate for the Alberta capital market.

Amendments to NI 45-102 are necessary so that in Alberta, as in the other jurisdictions that have adopted MI 45-108, securities distributed under MI 45-108 are subject to a “restricted period” on resale. MI 45-108 requires that, among other things, an offering document prepared under the instrument be filed by an issuer through the System for Electronic Document Analysis and Retrieval (SEDAR). The consequential amendments to NI 13-101 are necessary to facilitate these requirements

Request for comments

We welcome any comments on MI 45-108. Please submit your comments in writing on or before August 25, 2016. If you are not sending your comments by email, please send a CD containing the submissions (in Microsoft Word format).

Please note that comments received will be made publicly available and posted on the ASC website (at www.albertasecurities.com). You should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Deliver your comments only to the address below.

Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, AB, T2P 0R4

Attention:
Jessie Gill
Legal Counsel, Corporate Finance
Email: jessie.gill@asc.ca

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Questions

Please refer your questions to the following:

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Annex A

Proposed Multilateral Instrument 45-108 *Crowdfunding*

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Form 45-108F5 Personal Information Form and Authorization to Collect, Use and Disclose Personal Information

**PART 1
DEFINITIONS AND INTERPRETATION**

Definitions

1. In this Instrument

“accredited investor” means

- (a) except in Ontario, an accredited investor as defined in National Instrument 45-106 *Prospectus Exemptions*, and
- (b) in Ontario, an accredited investor as defined in subsection 73.3(1) of the the *Securities Act*, R.S.O. 1990 c. S.5 and in National Instrument 45-106 *Prospectus Exemptions*;

“aggregate minimum proceeds” means the amount disclosed in item 5.2 of the crowdfunding offering document that is sufficient to accomplish the business objectives of the issuer;

“Canadian Financial Statement Review Standards” means standards for the review of financial statements by a public accountant determined with reference to the Handbook;

“confirmation of investment limits form” means a completed Form 45-108F3 *Confirmation of Investment Limits*;

“crowdfunding offering document” means a completed Form 45-108F1 *Crowdfunding Offering Document* together with any amendment to that document and any document incorporated by reference therein;

“crowdfunding prospectus exemption” means the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*];

“distribution period” means the period referred to in the crowdfunding offering document during which an eligible crowdfunding issuer offers its securities to purchasers in reliance on the crowdfunding prospectus exemption;

“eligible crowdfunding issuer” means an issuer if all of the following apply:

- (a) the issuer and, if applicable, its parent are incorporated or organized under the laws of Canada or any jurisdiction of Canada;
- (b) the head office of the issuer is located in Canada;
- (c) a majority of the directors of the issuer are resident in Canada;

- (d) the principal operating subsidiary of the issuer, if any, is incorporated or organized under
 - (i) the laws of Canada or any jurisdiction of Canada, or
 - (ii) the laws of the United States of America or any state or territory of the United States of America or the District of Columbia;
- (e) the issuer is not an investment fund;

“eligible securities” means securities of an eligible crowdfunding issuer having the same price, terms and conditions that are distributed under the crowdfunding prospectus exemption during the distribution period and are any one or more of the following:

- (a) a common share;
- (b) a non-convertible preference share;
- (c) a security convertible into securities referred to in paragraph (a) or (b);
- (d) a non-convertible debt security linked to a fixed or floating interest rate;
- (e) a unit of a limited partnership;
- (f) a flow-through share under the ITA;

“executive officer” means an individual who is

- (a) a chair, vice-chair or president,
- (b) a chief executive officer or chief financial officer,
- (c) a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- (d) performing a policy-making function in respect of the issuer;

“funding portal” means

- (a) a registered dealer funding portal, or
- (b) a restricted dealer funding portal;

“issuer access agreement” means a written agreement entered into between an eligible crowdfunding issuer and a funding portal in compliance with section 26 [*Issuer access agreement*];

“issuer group” means

- (a) an eligible crowdfunding issuer,
- (b) an affiliate of the eligible crowdfunding issuer, and
- (c) any other issuer
 - (i) that is engaged in a common enterprise with the eligible crowdfunding issuer or with an affiliate of the eligible crowdfunding issuer, or
 - (ii) that is controlled, directly or indirectly, by the same person or company or persons or companies that control, directly or indirectly, the eligible crowdfunding issuer;

“permitted client” means a permitted client as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“personal information form” means a completed Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information*;

“registered dealer funding portal” means a person or company that

- (a) is registered in the category of investment dealer or exempt market dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, and
- (b) acts or proposes to act as an intermediary in a distribution of eligible securities through an online platform in reliance on the crowdfunding prospectus exemption;

“restricted dealer funding portal” means a person or company that

- (a) is registered in the category of restricted dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*,
- (b) is authorized under the terms and conditions of its restricted dealer registration to distribute securities under this Instrument,
- (c) acts or proposes to act as an intermediary in a distribution of eligible securities through an online platform in reliance on the crowdfunding prospectus exemption,
- (d) is not registered in any other registration category, and

- (e) in Alberta and Ontario, is not an affiliate of another registered dealer, registered adviser, or registered investment fund manager;

“right of withdrawal” means the right referred to in section 8 [*Right of withdrawal*] or a comparable right described in securities legislation of the jurisdiction in which the purchaser resides;

“risk acknowledgement form” means a completed Form 45-108F2 *Risk Acknowledgement*;

“SEC issuer” means an SEC issuer as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“U.S. AICPA Financial Statement Review Standards” means the standards of the American Institute of Certified Public Accountants for a review of financial statements by a public accountant, as amended from time to time.

Terms defined or interpreted in other instruments

2. (1) Unless otherwise defined herein, in Part 2 [*Crowdfunding prospectus exemption*], each term has the meaning ascribed, or interpretation given, to it in National Instrument 45-106 *Prospectus Exemptions*.
- (2) Unless otherwise defined herein, in Part 3 [*Requirements for funding portals*], each term has the meaning ascribed, or interpretation given, to it in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

Purchaser

3. References to a “client” in a provision of any instrument with which a funding portal is required to comply under Part 3 [*Requirements for funding portals*], must be read as if the references are to a “purchaser”.

Specifications – Québec

4. (1) In Québec, “trade” in this Instrument refers to any of the following activities:
- (a) the activities described in the definition of “dealer” in section 5 of the *Securities Act* (chapter V-1.1), including the following activities:
- (i) the sale or disposition of a security by onerous title, whether the terms of payment be on margin, installment or otherwise, but does not include a transfer or the giving in guarantee of securities in connection with a debt or the purchase of a security, except as provided in paragraph (b);
- (ii) participation as a trader in any transaction in a security through the facilities of an exchange or a quotation and trade reporting system;

- (iii) the receipt by a registrant of an order to buy or sell a security;
 - (b) a transfer or the giving in guarantee of securities of an issuer from the holdings of a control person in connection with a debt.
- (2) In Québec, the crowdfunding offering document and materials that are made available to purchasers by a reporting issuer in accordance with this Instrument are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus.
- (3) In Québec, the crowdfunding offering document and materials that are made available to purchasers in accordance with this Instrument must be drawn up in French only or in French and English.

PART 2 CROWDFUNDING PROSPECTUS EXEMPTION

Division 1: Distribution requirements

Crowdfunding prospectus exemption

5. (1) The prospectus requirement does not apply to a distribution by an eligible crowdfunding issuer of an eligible security of its own issue to a person or company that purchases the security as principal if all of the following apply:
- (a) the issuer offers the securities during the distribution period and the distribution period ends no later than 90 days after the date the issuer first offers its securities to purchasers;
 - (b) the total proceeds raised by the issuer group in reliance on the crowdfunding prospectus exemption does not exceed \$1 500 000 within the 12-month period ending on the last day of the distribution period;
 - (c) in Alberta and Ontario, the acquisition cost of the securities acquired by the purchaser
 - (i) in the case of a purchaser that is not an accredited investor, does not exceed
 - (A) \$2 500 for the distribution, and
 - (B) \$10 000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year,

- (ii) in the case of a purchaser that is an accredited investor that is not a permitted client, does not exceed
 - (A) \$25 000 for the distribution, and
 - (B) \$50 000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year, and
 - (iii) in the case of a purchaser that is a permitted client, is not limited;
 - (d) except in Alberta and Ontario the acquisition cost of the securities acquired by the purchaser
 - (i) in the case of a purchaser that is not an accredited investor, does not exceed \$2 500 for the distribution, and
 - (ii) in the case of a purchaser that is an accredited investor, does not exceed \$25 000 for the distribution;
 - (e) the issuer distributes the securities through a single funding portal;
 - (f) before the purchaser enters into an agreement to purchase the securities, the issuer makes available to the purchaser, through the funding portal, a crowdfunding offering document that is in compliance with
 - (i) section 7 [*Certificates*] and section 8 [*Right of withdrawal*], and
 - (ii) section 9 [*Liability for misrepresentation – reporting issuers*] or section 10 [*Liability for untrue statement – non-reporting issuers*], as applicable.
- (2) The crowdfunding prospectus exemption is not available if any of the following apply:
- (a) the proceeds of the distribution are used by the issuer to invest in, merge with or acquire an unspecified business;
 - (b) the issuer is not a reporting issuer, and the issuer previously distributed securities in reliance on the crowdfunding prospectus exemption and is not in compliance with any of the following:
 - (i) section 15 [*Filing or delivery of distribution materials*];
 - (ii) section 16 [*Annual financial statements*];
 - (iii) section 17 [*Annual disclosure of use of proceeds*];
 - (iv) section 19 [*Period of time for providing ongoing disclosure*];

- (v) section 20 [*Books and records*];
- (vi) in New Brunswick, Nova Scotia and Ontario, section 18 [*Notice of specified key events*];
- (c) the issuer is a reporting issuer and is not in compliance with its reporting obligations under securities legislation, including under this Instrument;
- (d) the issuer has previously commenced a distribution under this section and that distribution has not closed, been withdrawn or otherwise terminated.

Conditions for closing of the distribution

6. A distribution in reliance on the crowdfunding prospectus exemption must not close unless
 - (a) the right of withdrawal has expired,
 - (b) the aggregate minimum proceeds have been raised through one or both of the following:
 - (i) the distribution;
 - (ii) any concurrent distributions by any member of the issuer group, provided that the proceeds from those distributions are unconditionally available to the eligible crowdfunding issuer at the time of closing of the distribution,
 - (c) the issuer has provided to the funding portal written confirmation of the proceeds of the concurrent distributions referred to in subparagraph (b)(ii), if any,
 - (d) the issuer has received
 - (i) the purchase agreement entered into between the issuer and the purchaser,
 - (ii) a risk acknowledgement form for the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,
 - (iii) except in Alberta and Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2 500, and
 - (iv) in Alberta and Ontario, a confirmation of investment limits form for the purchaser, and

- (e) the closing occurs within 30 days of the end of the distribution period.

Certificates

7. (1) A crowdfunding offering document made available under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*] must contain a certificate executed by the issuer in accordance with the applicable provisions of Appendix A, which
 - (a) if the issuer is a reporting issuer, states that “*This crowdfunding offering document does not contain a misrepresentation. Purchasers of securities have a right of action in the case of a misrepresentation.*”, or
 - (b) if the issuer is not a reporting issuer, states that “*This crowdfunding offering document does not contain an untrue statement of a material fact. Purchasers of securities have a right of action in the case of an untrue statement of a material fact.*”
- (2) A certificate under subsection (1) must be true as at the date the certificate is signed, the date the crowdfunding offering document is made available to purchasers and the time of the closing of the distribution.
- (3) If a certificate under subsection (1) ceases to be true after a crowdfunding offering document is made available to a purchaser, the issuer must
 - (a) amend the crowdfunding offering document and provide a newly dated certificate executed by the issuer in accordance with the applicable provisions of Appendix A, and
 - (b) provide the amended crowdfunding offering document to the funding portal for the purpose of making it available to purchasers.

Right of withdrawal

8. If the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right, the crowdfunding offering document made available to the purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*] must provide the purchaser with a contractual right to withdraw from any agreement to purchase the security by delivering a notice to the funding portal within 48 hours after the date of the agreement to purchase and any subsequent amendment to the crowdfunding offering document.

Liability for misrepresentation – reporting issuers

9. If the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right, the crowdfunding offering document of a reporting issuer, made available to the purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus*

exemption], must provide a contractual right of action against the issuer for rescission and damages that

- (a) is available to the purchaser if the crowdfunding offering document or other materials made available to the purchaser contain a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,
- (b) is enforceable by the purchaser delivering a notice to the issuer
 - (i) in the case of an action for rescission, within 180 days after the date of purchase by the purchaser, or
 - (ii) in the case of an action for damages, before the earlier of
 - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - (B) 3 years after the date of purchase,
- (c) is subject to the defence that the purchaser had knowledge of the misrepresentation,
- (d) in the case of an action for damages, provides that the amount recoverable
 - (i) does not exceed the price at which the security was distributed, and
 - (ii) does not include all or any part of the damages that the issuer proves do not represent the depreciation in value of the security resulting from the misrepresentation, and
- (e) is in addition to, and does not detract from, any other right of the purchaser.

Liability for untrue statement – non-reporting issuers

- 10.** The crowdfunding offering document of an issuer that is not a reporting issuer, made available to a purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], must provide a contractual right of action against the issuer for rescission and damages that
- (a) is available to the purchaser if the crowdfunding offering document or other materials made available to the purchaser contain an untrue statement of a material fact, without regard to whether the purchaser relied on the statement,
 - (b) is enforceable by the purchaser delivering a notice to the issuer

- (i) in the case of an action for rescission, within 180 days after the date of purchase by the purchaser, or
- (ii) in the case of an action for damages, before the earlier of
 - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - (B) 3 years after the date of purchase,
- (c) is subject to the defence that the purchaser had knowledge of the untrue statement of a material fact,
- (d) in the case of an action for damages, provides that the amount recoverable
 - (i) does not exceed the price at which the security was distributed, and
 - (ii) does not include all or any part of the damages that the issuer proves do not represent the depreciation in value of the security resulting from the untrue statement of a material fact, and
- (e) is in addition to, and does not detract from, any other right of the purchaser.

Advertising and general solicitation

- 11. (1)** An issuer must not, directly or indirectly, advertise a distribution, or solicit purchasers, under the crowdfunding prospectus exemption.
- (2)** Despite subsection (1), the issuer may inform purchasers that it proposes to distribute securities under the crowdfunding prospectus exemption and may refer purchasers to the funding portal facilitating the distribution.

Additional distribution materials

- 12. (1)** In addition to the crowdfunding offering document required to be made available to a purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], an issuer may make available to a purchaser only through the funding portal the following materials:
- (a) a term sheet;
 - (b) a video;
 - (c) other materials summarizing the information in the crowdfunding offering document.
- (2)** The materials referred to in subsection (1) must be consistent with the information in the

crowdfunding offering document.

- (3) If an amended crowdfunding offering document is made available to purchasers, all materials made available to purchasers under this section must be amended, if necessary, and made available to purchasers through the funding portal.

Commissions or fees

13. No person or company in the issuer group or director or executive officer of an issuer in the issuer group may, directly or indirectly, pay a commission, finder's fee, referral fee or similar payment to any person or company in connection with a distribution in reliance on the crowdfunding prospectus exemption, other than to a funding portal.

Restriction on lending

14. No person or company in the issuer group or director or executive officer of an issuer in the issuer group may, directly or indirectly, lend or finance, or arrange lending or financing, for a purchaser to purchase securities of the issuer under the crowdfunding prospectus exemption.

Filing or delivery of distribution materials

15. (1) An issuer must, no later than 10 days after the closing of the distribution, file with the securities regulatory authority or regulator Form 45-106F1 *Report of Exempt Distribution*.
- (2) At the same time that the issuer files the form referred to in subsection (1), the issuer must file a copy of the crowdfunding offering document and the materials referred to in paragraphs 12(1)(a) and (c) [*Additional distribution materials*].
- (3) Upon request, the issuer must deliver to the securities regulatory authority or regulator any video referred to in paragraph 12(1)(b) [*Additional distribution materials*].

Division 2: Ongoing disclosure requirements for non-reporting issuers

Annual financial statements

16. (1) An issuer that is not a reporting issuer that has distributed securities under the crowdfunding prospectus exemption must deliver to the securities regulatory authority or regulator and make reasonably available to each purchaser, within 120 days after the end of its most recently completed financial year, the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (2) The financial statements referred to in subsection (1) must

- (a) be approved by management of the issuer and be accompanied by
 - (i) a review report or auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$250 000 or more but is less than \$750 000, or
 - (ii) an auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$750 000 or more,
 - (b) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles – general requirements*], and subsection 3.2(5) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (c) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (3) If the financial statements referred to in subsection (1) are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
- (a) not include a reservation or modification,
 - (b) identify the financial periods that were subject to review,
 - (c) be in the form specified by Canadian Financial Statement Review Standards, and
 - (d) refer to IFRS as the applicable financial reporting framework.
- (4) If the financial statements referred to in subsection (1) are accompanied by an auditor's report, the auditor's report must be
- (a) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (b) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (5) If the financial statements referred to in subsection (1) are those of an SEC issuer,

- (a) the financial statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,
 - (b) the financial statements may be reviewed in accordance with U.S. AICPA Financial Statement Review Standards and accompanied by a review report prepared in accordance with U.S. AICPA Financial Statement Review Standards that
 - (i) does not include a modification or exception,
 - (ii) identifies the financial periods that were subject to review,
 - (iii) identifies the review standards used to conduct the review and the accounting principles used to prepare the financial statements, and
 - (iv) refers to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (c) the financial statements may be audited in accordance with section 3.8 [*Acceptable auditing standards for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (6) If the financial statements referred to in subsection (5) are accompanied by a review report and the statements have been reviewed in accordance with Canadian Financial Statement Review Standards, the review report must be in compliance with paragraphs (3)(a) to (c) and must
- (a) refer to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, or
 - (b) refer to U.S. GAAP as the applicable financial reporting framework if the financial statements comply with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (7) For the purpose of subsection (3) and paragraph (5)(b), the review report must be prepared and signed by a person or company authorized to sign a review report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.

- (8) If any of the financial statements referred to in subsection (1) are not accompanied by an auditor's report or a review report prepared by a public accountant, the statements must include the following statement; "*These financial statements were not audited or subject to a review by a public accountant, as permitted by securities legislation where an issuer has not raised more than a pre-defined amount under prospectus exemptions.*"

Annual disclosure of use of proceeds

17. (1) The financial statements of an issuer referred to in section 16 [*Annual financial statements*] and the financial statements required under section 4.1 [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations* must be accompanied by a notice that details, as at the date of the issuer's most recently completed financial year, the use of the gross proceeds received by the issuer from a distribution made under the crowdfunding prospectus exemption.
- (2) An issuer is not required to provide the notice referred to in subsection (1) if
- (a) the issuer has disclosed in one or more prior notices the use of the entire gross proceeds from the distribution, or
 - (b) the issuer is no longer required to deliver, and make available to purchasers, annual financial statements.

Notice of specified key events

18. In New Brunswick, Nova Scotia and Ontario, an issuer that is not a reporting issuer that distributes securities in reliance on the crowdfunding prospectus exemption must make reasonably available to each holder of a security acquired under the crowdfunding prospectus exemption, a notice in Form 45-108F4 *Notice of Specified Key Events* of each of the following events within 10 days of their occurrence:
- (a) a discontinuation of the issuer's business;
 - (b) a change in the issuer's industry;
 - (c) a change of control of the issuer.

Period of time for providing ongoing disclosure

19. The obligations of an issuer that is not a reporting issuer under section 16 [*Annual financial statements*] and, in New Brunswick, Nova Scotia and Ontario, under section 18 [*Notice of specified key events*] apply until the earliest of the following events:
- (a) the issuer becomes a reporting issuer;
 - (b) the issuer has completed a winding up or dissolution;

- (c) the securities of the issuer are beneficially owned, directly or indirectly, by fewer than 51 security holders worldwide.

Books and records

- 20.** An issuer that is not a reporting issuer that distributes securities under the crowdfunding prospectus exemption must maintain the following books and records relating to the distribution for 8 years following the closing of the distribution:
- (a) the crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*];
 - (b) the risk acknowledgement forms;
 - (c) except in Alberta and Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2 500;
 - (d) in Alberta and Ontario, the confirmation of investment limits forms;
 - (e) the ongoing disclosure documents described in Division 2 [*Ongoing disclosure requirements for non-reporting issuers*];
 - (f) the aggregate number of securities issued under the crowdfunding prospectus exemption, and the date of issuance and the price for each security;
 - (g) the names of all security holders of the issuer and the number and the type of securities held by each security holder;
 - (h) such other books and records as are necessary to record the business activities of the issuer and to comply with this Instrument.

PART 3 REQUIREMENTS FOR FUNDING PORTALS

Division 1: Registration requirements, general

Restricted dealer funding portal

- 21.** A restricted dealer funding portal and a registered individual of the restricted dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:
- (a) the requirements in this section and in Division 2 [*Registration requirements, funding portals*] and Division 3 [*Additional requirements, restricted dealer funding portal*] of this Part;

- (b) the terms, conditions, restrictions and requirements applicable to a registered dealer and to a registered individual, respectively, including
- (i) National Instrument 31-102 *National Registration Database*,
 - (ii) National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, except for the following:
 - (A) Division 2 of Part 3 [Education and experience requirements], except for subsection 3.4(2) [Proficiency – initial and ongoing] and section 3.9 [Exempt market dealer - dealing representative];
 - (B) section 6.2 [*If IIROC approval is revoked or suspended*];
 - (C) section 6.3 [*If MFDA approval is revoked or suspended*];
 - (D) Part 8 [*Exemptions from the requirement to register*];
 - (E) Part 9 [*Membership in a self-regulatory organization*];
 - (F) paragraphs 11.5(2)(i), and (j) [*General requirements for records*];
 - (G) paragraphs 13.2(2)(c) and (d) and subsection 13.2(6) [*Know your client*];
 - (H) section 13.3 [*Suitability*];
 - (I) Division 3 of Part 13 [*Referral arrangements*], if the restricted dealer funding portal does not enter into a referral arrangement permitted under subsection 40(2) [*Restriction on referral arrangements*] of this Instrument;
 - (J) section 13.13 [*Disclosure when recommending the use of borrowed money*];
 - (K) section 13.16 [*Dispute resolution service*];
 - (L) paragraphs 14.2(2)(i), (j), (k), (m), and (n) [*Relationship disclosure information*];
 - (M) Division 5 of Part 14 [*Reporting to clients*], except for section 14.12 [*Content and delivery of trade confirmation*],
 - (iii) National Instrument 33-105 *Underwriting Conflicts*,

- (iv) National Instrument 33-109 *Registration Information*, and
- (v) the requirement to pay fees under securities legislation;
- (c) the requirement to deal fairly, honestly and in good faith with purchasers;
- (d) any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the restricted dealer funding portal or on a registered individual of the restricted dealer funding portal.

Note: In Ontario, a number of requirements in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations do not apply because similar requirements are contained in provisions of the Securities Act (Ontario). To the extent that (a) one or more requirements of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations made applicable under section 21 [Restricted dealer funding portal] do not apply in Ontario, and (b) there is a similar requirement in the Securities Act (Ontario) that is referenced in a note in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, a restricted dealer funding portal or a registered individual of the restricted dealer funding portal operating in Ontario is subject to the similar requirement referenced in the Securities Act (Ontario).

Registered dealer funding portal

- 22.** A registered dealer funding portal and a registered individual of the registered dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:
- (a) the requirements in this section and Division 2 [*Registration requirements, funding portals*] of this Part;
 - (b) the terms, conditions, restrictions or requirements applicable to its registration category and to a registered individual, respectively, under securities legislation.

Note: In Ontario, a number of requirements in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations do not apply because similar requirements are contained in provisions of the Securities Act (Ontario). To the extent that (a) one or more requirements of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations made applicable under section 22 [Registered dealer funding portal] do not apply in Ontario, and (b) there is a similar requirement in the Securities Act (Ontario) that is referenced in a note in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, a registered dealer funding portal or a registered individual of the registered dealer funding portal operating in Ontario is subject to the similar requirement referenced in the Securities Act (Ontario).

Division 2: Registration requirements, funding portals**Restricted dealing activities**

- 23. (1)** A funding portal and a registered individual of the funding portal must not act as intermediaries in connection with a distribution of or trade in securities of an eligible crowdfunding issuer that is a related issuer of the funding portal.
- (2)** For the purposes of subsection (1), an issuer is not a related issuer where a funding portal, an affiliate of the funding portal, or any officer, director, significant shareholder, promoter or control person of the funding portal or of any affiliate of the funding portal, has beneficial ownership of, or control or direction over, issued and outstanding voting securities of the issuer, or securities convertible into voting securities of the issuer that alone or together constitute 10 percent or less of the outstanding voting securities of the issuer.

Advertising and general solicitation

- 24. (1)** A funding portal must not, directly or indirectly, advertise a distribution or solicit purchasers under the crowdfunding prospectus exemption.
- (2)** A funding portal may only make available to purchasers the crowdfunding offering document and the materials under section 12 [*Additional distribution materials*].
- (3)** A funding portal must ensure that the information about an eligible crowdfunding issuer and a distribution of eligible securities of the issuer is presented or displayed on its online platform in a fair, balanced and reasonable manner.

Access to funding portal

- 25. (1)** Prior to allowing an eligible crowdfunding issuer to access the funding portal for the purposes of posting a distribution, a funding portal must
- (a)** enter into an issuer access agreement with the issuer,
 - (b)** obtain a personal information form from each director, executive officer and promoter of the issuer, and
 - (c)** conduct or arrange for the following:
 - (i)** backgrounds checks on the issuer;
 - (ii)** criminal record and background checks on each individual referred to in paragraph (b).

- (2) In respect of each individual who becomes a director, executive officer or promoter of the issuer during the distribution period, the funding portal must
- (a) obtain a personal information form, and
 - (b) conduct or arrange for criminal record and background checks to be conducted.

Issuer access agreement

26. The issuer access agreement referred to in paragraph 25(1)(a) [*Access to funding portal*] must include all of the following:
- (a) confirmation that the issuer will comply with the funding portal's policies and procedures concerning information posted by issuers on the funding portal's online platform;
 - (b) confirmation that the information that the issuer provides to the funding portal or posts on the funding portal's online platform will only contain permitted materials that are reasonably supported, and will not contain a promotional statement, a misrepresentation or an untrue statement of a material fact or otherwise be misleading;
 - (c) confirmation from each of the issuer and the funding portal that each is responsible for compliance with applicable securities legislation, including compliance with this Instrument;
 - (d) a requirement that the funding portal must terminate any distribution and report immediately to the securities regulatory authority or regulator if, at any time during the distribution period, it appears to the funding portal that the business of the issuer is not being, or may not be, conducted with integrity;
 - (e) in Alberta and Ontario, confirmation that the funding portal is the agent of the issuer for the purposes of a distribution under the crowdfunding prospectus exemption.

Obligation to review materials of eligible crowdfunding issuer

27. (1) A funding portal is required to review the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about an issuer or a distribution made available to the funding portal or of which the funding portal is aware.
- (2) If it appears to the funding portal that, based upon its review of the information and materials in subsection (1), the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is

incorrect, incomplete or misleading, the funding portal must require that the issuer correct, complete or clarify the incorrect, incomplete or misleading disclosure prior to its posting on the funding portal's online platform.

Denial of issuer access and termination

28. (1) The funding portal must not allow an issuer access to its online platform for the purposes of a distribution under the crowdfunding prospectus exemption if

- (a) after reviewing the information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal makes a good faith determination that
 - (i) the business of the issuer may not be conducted with integrity because of the past conduct of
 - (A) the issuer, or
 - (B) any of the issuer's directors, executive officers, or promoters,
 - (ii) the issuer is not complying with one or more of its obligations under this Instrument, or
 - (iii) the crowdfunding offering document or the materials referred to in subsection 12(1) [*Additional distribution materials*] contain a statement or information that constitutes a misrepresentation or an untrue statement of a material fact and the issuer has not corrected the statement or information as requested by the funding portal under section 27 [*Obligation to review materials of eligible crowdfunding issuer*], or
- (b) the issuer or any of its directors, executive officers or promoters has pled guilty to or has been found guilty of an offence related to or has entered into a settlement agreement in a matter that involved fraud, or securities violations.

(2) A funding portal must terminate a distribution if, at any time during the distribution period, it appears to the funding portal that the business of the issuer is not being, or may not be, conducted with integrity.

Return of funds

29. A funding portal must promptly return to the purchaser all funds or assets received from a purchaser in connection with a distribution under the crowdfunding prospectus exemption if any of the following apply:

- (a) the purchaser exercises its right of withdrawal;

- (b) the requirements set out in section 6 [*Conditions for closing of the distribution*] are not met;
- (c) the issuer withdraws the distribution;
- (d) the distribution is otherwise terminated.

Notifications

- 30.** If an amended crowdfunding offering document has been made available to purchasers under paragraph 7(3)(b) [*Certificates*], the funding portal must notify each purchaser that entered into an agreement to purchase securities prior to the amended crowdfunding offering document being made available that an amended crowdfunding offering document and, if applicable, other materials referred to in subsection 12(1) [*Additional distribution materials*] have been made available on the funding portal's online platform.

Removal of distribution materials

- 31.** A funding portal must remove a crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*] on the earliest of the following:
- (a) the end of the distribution period;
 - (b) the withdrawal of the distribution;
 - (c) the date on which the funding portal becomes aware that the crowdfunding offering document or the materials may contain a statement or information that is false, deceptive, misleading or that may constitute a misrepresentation or untrue statement of a material fact.

Monitoring purchaser communications

- 32.** If a funding portal establishes an online communication channel through which purchasers may communicate with one another and with the eligible crowdfunding issuer about a distribution, the funding portal must monitor postings and remove any statement by, or information from, the issuer that is inconsistent with the crowdfunding offering document or is not in compliance with this Instrument.

Online platform acknowledgement

- 33.** Prior to allowing a person or company entry to its online platform, a funding portal must require the person or company to acknowledge all of the following:

- (a) that a distribution posted on the funding portal's online platform
 - (i) has not been reviewed or approved in any way by a securities regulatory authority or regulator, and
 - (ii) is risky and may result in the loss of all or most of an investment;
- (b) that the person or company may receive limited ongoing information about an issuer or an investment made through the funding portal;
- (c) that the person or company is entering an online platform operated by a funding portal that
 - (i) is registered in the category of restricted dealer subject to the terms and conditions of this Instrument, and will not provide advice about the suitability of the purchase of the security, or
 - (ii) is registered in the category of investment dealer or exempt market dealer, and is required to provide advice about the suitability of the purchase of the security.

Purchaser requirements prior to purchase

- 34.** Prior to a purchaser entering into an agreement to purchase securities under the crowdfunding prospectus exemption, a funding portal must
- (a) obtain from the purchaser a risk acknowledgement form where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,
 - (b) except in Alberta and Ontario, confirm and validate that the purchaser is an accredited investor if the acquisition cost is greater than \$2 500, and
 - (c) in Alberta and Ontario, obtain from the purchaser, and validate, a confirmation of investment limits form.

Required online platform disclosure

- 35.** A funding portal must include on its online platform prominent disclosure of all compensation, including fees, costs and other expenses that the funding portal may charge to, or impose on, an eligible crowdfunding issuer or a purchaser, and any such other disclosure that may be required under securities legislation.

Delivery to the issuer

- 36.** On or before the closing of a distribution, the funding portal must deliver to the issuer the following:
- (a) the purchase agreement entered into between the issuer and the purchaser;
 - (b) a risk acknowledgement form from the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document;
 - (c) except in Alberta and Ontario, confirmation and validation that the purchaser is an accredited investor, if the acquisition cost is greater than \$2 500;
 - (d) in Alberta and Ontario, a confirmation of investment limits form for the purchaser.

Release of funds

- 37.** A funding portal must not release the funds raised under the distribution to the eligible crowdfunding issuer unless the requirements set out in section 6 [*Conditions for closing of the distribution*] have been met.

Reporting requirements

- 38. (1)** A funding portal must immediately notify the securities regulatory authority or regulator in writing if, at any time during the distribution period, the funding portal terminates a distribution pursuant to subsection 28(2) [*Denial of issuer access and termination*].
- (2)** A funding portal must deliver to the securities regulatory authority or regulator, in a format acceptable to the securities regulatory authority or regulator, within 30 days of the end of the second and fourth quarters of its financial year, a report containing the following information for the immediately preceding two quarters:
- (a) each distribution through the funding portal, including the name of the issuer, the type of security, the amount of the distribution, the industry of the issuer and the number of purchasers participating in the distribution;
 - (b) the name and industry of each issuer denied access to the funding portal and the reason for the denial;
 - (c) the name and industry of each issuer
 - (i) that was granted access to the funding portal but the distribution did not close and the reason the distribution did not close, or

- (ii) that was granted access to the funding portal but was subsequently removed from the funding portal and the reason for removal;
- (d) such other information as a securities regulatory authority or regulator may reasonably request.

Division 3: Additional requirements, restricted dealer funding portal

Prohibition on providing recommendations or advice

- 39.** A restricted dealer funding portal and a registered individual of the restricted dealer funding portal must not, directly or indirectly, provide a recommendation or advice to a purchaser
- (a) to purchase securities under the crowdfunding prospectus exemption or in connection with any other trade in a security, or
 - (b) to use borrowed money to finance any part of a purchase of securities under the crowdfunding prospectus exemption or in connection with any other trade in a security.

Restriction on referral arrangements

- 40. (1)** A restricted dealer funding portal must not participate in a referral arrangement.
- (2)** Despite subsection (1), a funding portal may compensate a third party for referring an issuer to the funding portal.

Permitted dealing activities

- 41.** A restricted dealer funding portal and a registered individual of the restricted dealer funding portal may only act as intermediaries in connection with
- (a) a distribution of securities made in reliance on the crowdfunding prospectus exemption,
 - (b) except in Ontario, a distribution of securities made in reliance on a start-up crowdfunding registration and prospectus exemptive relief order granted by a securities regulatory authority or regulator, provided that the restricted dealer funding portal and a registered individual of the restricted dealer funding portal are in compliance with the terms, conditions, restrictions and requirements in this Instrument, and
 - (c) in Alberta, a distribution of securities made in reliance on Alberta Securities Commission Rule 45-517 *Prospectus Exemption for Start-up Businesses*,

provided that the restricted dealer funding portal and a registered individual of the restricted dealer funding portal are in compliance with the terms, conditions, restrictions and requirements in this Instrument.

Chief compliance officer

- 42.** A restricted dealer funding portal must not designate an individual as its chief compliance officer under section 11.3 [*Designating a chief compliance officer*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* unless the individual has
- (a) passed the Exempt Market Products Exam or the Canadian Securities Course Exam,
 - (b) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and
 - (c) gained 12 months of experience and training that a reasonable person would consider necessary to perform the functions of a chief compliance officer for a restricted dealer funding portal.

Proficiency

- 43. (1)** A restricted dealer funding portal must not permit an individual to perform an activity in connection with a distribution under the crowdfunding prospectus exemption unless the individual has the education, training and experience, which may include appropriate registration, that a reasonable person would consider necessary to perform the activity competently, including understanding the structure, features and risks of the distribution.
- (2)** For the purposes of subsection (1), the obligation to understand the structure, features and risks of the distribution does not include any obligation to assess
- (a) the merits or expected returns of the investment to purchasers, or
 - (b) the commercial viability of the proposed business or distribution.

PART 4 EXEMPTION

Exemption

- 44. (1)** Subject to subsection (2), the securities regulatory authority or regulator may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2)** Despite subsection (1), in Ontario, only the regulator may grant an exemption.

- (3) Except in Alberta and Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

**PART 5
COMING INTO FORCE**

Effective date

45. This Instrument comes into force on •.

Appendix A

Signing Requirements for Certificate of a Crowdfunding Offering Document (Section 7)

1. If the eligible crowdfunding issuer is a company, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed
 - (a) by the issuer's chief executive officer and chief financial officer or, if the issuer does not have a chief executive officer or chief financial officer, an individual acting in that capacity,
 - (b) on behalf of the directors of the issuer, by
 - (i) any 2 directors who are authorized to sign, other than the persons referred to in paragraph (a), or
 - (ii) all the directors of the issuer, and
 - (c) by each promoter of the issuer.

2. If the eligible crowdfunding issuer is a trust, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by
 - (a) the individuals who perform functions for the issuer similar to those performed by the chief executive officer and the chief financial officer of a company, and
 - (b) each trustee and the manager of the issuer.

3. A certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section
 - (a) if a trustee or manager signing the certificate is an individual, the individual signs the certificate,
 - (b) if a trustee or manager signing the certificate is a company, the certificate is signed
 - (i) by the chief executive officer and the chief financial officer of the trustee or the manager, and
 - (ii) on behalf of the board of directors of the trustee or the manager, by
 - (A) any two directors of the trustee or the manager, other than the persons referred to in subparagraph (i), or

- (B) all of the directors of the trustee or the manager,
 - (c) if a trustee or manager signing the certificate is a limited partnership, the certificate is signed by each general partner of the limited partnership as described in section 5 in relation to an eligible crowdfunding issuer that is a limited partnership, or
 - (d) in any other case, the certificate is signed by any person with authority to act on behalf of the trustee or the manager.
- 4. Despite sections 2 and 3, if the trustees of an eligible crowdfunding issuer, do not perform functions for the issuer similar to those performed by the directors of a company, the trustees are not required to sign the certificate of the issuer if at least two individuals who perform functions for the issuer similar to those performed by the directors of a company sign the certificate.
- 5. If the eligible crowdfunding issuer is a limited partnership, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by
 - (a) each individual who performs a function for the issuer similar to any of those performed by the chief executive officer or the chief financial officer of a company, and
 - (b) each general partner of the issuer.
- 6. A certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section
 - (a) if a general partner of the eligible crowdfunding issuer is an individual, the individual signs the certificate,
 - (b) if a general partner of the eligible crowdfunding issuer is a company, the certificate is signed
 - (i) by the chief executive officer and the chief financial officer of the general partner, and
 - (ii) on behalf of the board of directors of the general partner, by
 - (A) any two directors of the general partner, other than the persons referred to in subparagraph (i), or
 - (B) all of the directors of the general partner,

- (c) if a general partner of the eligible crowdfunding issuer is a limited partnership, the certificate is signed by each general partner of the limited partnership and, for greater certainty, this section applies to each general partner required to sign,
 - (d) if a general partner of the eligible crowdfunding issuer is a trust, the certificate is signed by the trustees of the general partner as described in section 2 in relation to an issuer that is a trust, or
 - (e) in any other case where there is a general partner of the eligible crowdfunding issuer, the certificate is signed by any person with authority to act on behalf of the general partner.
7. If an eligible crowdfunding issuer is not a company, trust or limited partnership, a certificate under paragraph 7(1)(b) [*Certificates*] of the Instrument complies with this section if it is signed by the persons that, in relation to the issuer, are in a similar position or perform a similar function to any of the persons referred to in section 1, 2, 3, 4, 5 or 6.

ANNEX B

Proposed Form 45-108F1
Crowdfunding Offering Document

Instructions

*This Form contains the disclosure items that an eligible crowdfunding issuer offering securities under the crowdfunding prospectus exemption (the **issuer**) must include in a crowdfunding offering document. If any disclosure item is not applicable, include the relevant heading and state “Not applicable” under it.*

Use plain language and focus on relevant information that would assist purchasers in making an investment decision. Use tables, charts and other graphic methods of presenting information if this will make the information easier to understand. The information should be balanced and not promotional in nature. A longer document is not necessarily a better document.

Do not disclose forward-looking information unless there is a reasonable basis for the forward-looking information. If material forward-looking information is disclosed, it must be accompanied by disclosure that identifies the forward-looking information as such, and cautions that actual results may vary from the forward-looking information. An example of forward-looking information would be an estimate of the timeline to complete a project.

If this crowdfunding offering document is amended and restated, the document that is made available to purchasers must be labelled as an amended and restated crowdfunding offering document.

This crowdfunding offering document is divided into the following 11 items:

ITEM 1 – Warning to purchasers

ITEM 2 – Brief overview of the issuer

ITEM 3 – Brief overview of the issuer’s business

ITEM 4 – What you need to know about the issuer’s management

ITEM 5 – What you need to know about the distribution

ITEM 6 – What you need to know about the issuer

ITEM 7 – What you need to know about the funding portal

ITEM 8 – What you need to know about your rights

ITEM 9 – Other relevant information

ITEM 10 – Documents incorporated by reference in this crowdfunding offering document

ITEM 11 – Certificate

ITEM 1 – WARNING TO PURCHASERS

Include the following statement, in bold type:

“No securities regulatory authority or regulator has assessed, reviewed or approved the merits of these securities or reviewed this crowdfunding offering document. Any representation to the contrary is an offence. This is a risky investment.”

ITEM 2 – BRIEF OVERVIEW OF THE ISSUER

2.1 – Issuer information

Provide the following information in the table below:

Full legal name of issuer	
Legal status (form of entity and date and jurisdiction of organization)	
Articles of incorporation, limited partnership agreement or similar document, and shareholder agreement, available at:	
Head office address of issuer	
Telephone	
Fax	
Website URL	
Link(s) to access video(s) relating to this offering (see instruction 1 below)	
Jurisdictions of Canada where the issuer is a reporting issuer (see instruction 2 below)	

Instructions:

- 1. A video may only be made available on the funding portal's online platform.*
- 2. Disclose each jurisdiction of Canada where the issuer is a reporting issuer. If the issuer is not a reporting issuer, disclose that fact.*

2.2 – Issuer contact person

Provide the following information for a contact person at the issuer who is able to answer questions from a purchaser or a securities regulatory authority or regulator:

Full legal name of the contact person	
Position held at the issuer	
Business address	
Business telephone number	
Business email address	

ITEM 3 – BRIEF OVERVIEW OF THE ISSUER’S BUSINESS

Briefly explain, in a few lines, the issuer’s business and why the issuer is raising funds.

Include the following statement, in bold type:

“A more detailed description of the issuer’s business is provided below.”

ITEM 4 – WHAT YOU NEED TO KNOW ABOUT THE ISSUER’S MANAGEMENT

Provide the required information in the following table for each executive officer, director, promoter and control person of the issuer.

Instruction: An executive officer is an individual who is: (a) a chair, vice-chair or president; (b) a chief executive officer or chief financial officer; (c) a vice-president in charge of a principal business unit, division or function including sales, finance or production; or (d) performing a policy-making function in respect of the issuer.

Full legal name City, prov/state and country of residence Position at issuer	Principal occupation for the last five years	Expertise, education, and experience that is relevant to the issuer's business	Percentage of time the person spends/will spend on the issuer's business (if less than full time)	Number and type of securities of the issuer owned, directly or indirectly Date securities were acquired and price paid for securities % of the issuer's issued and outstanding securities as of the date of this crowdfunding offering document

State whether each person listed in item 4 or the issuer, as the case may be

- (a) has ever pled guilty to or been found guilty of:
- (i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) of Canada;
 - (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;
 - (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein;
 - (iv) an offence under the criminal legislation of any other foreign jurisdiction,
- (b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign jurisdiction in the last ten years related to his or her involvement in any type of business, securities, insurance or banking activity,
- (c) is or has been the subject of a bankruptcy or insolvency proceeding in the last ten years, and/or
- (d) is an executive officer, director, promoter or control person of an issuer that is or has been subject to a proceeding described in paragraphs (a), (b) or (c) above.

ITEM 5 – WHAT YOU NEED TO KNOW ABOUT THE DISTRIBUTION**5.1 – Distribution information**

Provide the following information in the table below:

Type of securities being distributed	
Price per security	\$
Description of any additional rewards or benefits that are not securities (see instruction 1 below)	
Start of distribution period	
End of distribution period	
Date and description of amendment(s) made to this crowdfunding offering document, if any	
Jurisdiction(s) where securities are being distributed	
Expected proceeds of this distribution (see instruction 2 below)	\$
Minimum subscription per purchaser, if applicable	\$

Instructions:

1. Include the following statement, in bold type as a footnote to the table if the issuer is offering any rewards or benefits:

“The disclosure of additional rewards and benefits that are not securities is for information purposes only. A purchaser is cautioned that any rights applicable to a purchaser as result of an offering of rewards or benefits that are not securities are outside the jurisdiction of securities legislation.”

2. The amount disclosed must be the same as the amount in Row A in the table under Proceeds to be raised in item 5.2.

5.2 – Aggregate proceeds

Insert the relevant dollar amount and include the following statement, in bold type:

The issuer requires aggregate minimum proceeds of \$ _____ to accomplish the business objectives described below.

Provide the following information in the tables below:

Proceeds to be raised

A.	Expected proceeds of this distribution	\$
B.	Proceeds expected to be received from concurrent distributions, if any, that will be unconditionally available to the issuer at the time of closing of the distribution (see instruction 1 below)	\$
C.	Aggregate minimum proceeds C = (A+B) (see instruction 2 below)	\$
D.	Maximum amount the issuer wants to raise	\$

Instructions:

1. The amount disclosed in Row B should reconcile to the information provided in item 5.3.
2. The amount disclosed in Row C must be the same as the amount disclosed in the statement at the beginning of this item.

Use of proceeds

	Description of expenses	Assuming aggregate minimum proceeds	Assuming maximum amount raised, if applicable
A.	Fees to be paid to funding portal (see instructions 1 and 2 below)	\$	\$
B.	Other expenses of this distribution (see instruction 3 below)	\$	\$
C.	Funds to accomplish business objectives (see instruction 4)	\$	\$
D.	Total (see instruction 5)	\$	\$

Instructions:

1. Describe the fees (e.g., commission, arranging fee or other fee) that the funding portal is charging for its services. Describe each type of fee and the estimated amount to be paid for each

type. If a commission is being paid, indicate the percentage that the commission will represent of the gross proceeds of the distribution.

2. Disclose the estimated number and value of the issuer's securities to be issued, if any, in consideration for all or a portion of the portal's fees.

3. State the nature of each expense (e.g. legal, accounting, audit) and the estimated amount of the expense.

4. State the business objectives the issuer expects to accomplish using the proceeds to be raised, assuming: (i) the aggregate minimum proceeds are raised; and (ii) if applicable, the maximum amount is raised. Describe each business objective and state the estimated time period for the objective to be accomplished and the costs related to accomplishing it. Each business objective must be included in a separate row in the table.

5. The total dollar amount of the proceeds to be raised must be accounted for in the table. The amount disclosed in Row D under the column Assuming aggregate minimum proceeds must be the same as the amount in Row C in the table under Proceeds to be raised in this item. The amount disclosed in Row D under the column Assuming maximum amount raised, if applicable must be the same as the amount in Row D in the table under Proceeds to be raised in this item.

Business Acquisition

If any of the proceeds will be used by the issuer to acquire, invest in, or merge with a business, disclose, for that business, the information required by items 3 and 6.3, together with other relevant information.

5.3 – Concurrent distributions

If the proceeds of a concurrent distribution will be unconditionally available to the issuer at the time of closing of the distribution, provide the following information for each distribution by any member of the issuer group that is intended to be conducted, at least in part, during the distribution period:

- (a) type of securities being distributed in concurrent distribution;
- (b) proposed size of concurrent distribution;
- (c) proposed closing date of concurrent distribution;
- (d) price and terms of securities to be distributed in concurrent distribution.

Instruction: If during the course of this distribution: (i) there is any change in the size, type of security, price per security, or other terms and conditions in a concurrent distribution being made by the issuer; (ii) there is any change in the amount of proceeds proposed to be received by the issuer from a concurrent distribution being made by a member of the issuer group, other than the issuer; or (iii) a new distribution is commenced by any member of the issuer group where the proceeds of the distribution will be unconditionally available to the issuer, this crowdfunding offering document must be amended to reflect this development.

5.4 – Description of securities distributed and relevant rights

This security gives you the following rights (choose all that apply):

- Voting rights;
- Interest or dividends;
- Redemption rights;
- Rights on dissolution;
- Conversion rights: Each security is convertible into _____;
- Other (describe) _____.

Provide a description of any right to receive interest or dividends.

Other rights or obligations

State whether purchasers will have protections such as tag-along or pre-emptive rights. If no such rights will be provided or are minimal in nature, explain:

- (a) the risks associated with being a minority security holder;
- (b) that the absence of such rights affects the value of the securities.

Any other restrictions or conditions

Provide a brief summary of any other restrictions or conditions that attach to the securities being distributed.

Dilution

Include the following statement:

“Your percentage of ownership in this issuer may be reduced significantly due to a number of factors beyond your control, such as the rights and characteristics of other securities already issued by the issuer, future issuances of securities by the issuer, and potential changes to the capital structure and/or control of the issuer.”

5.5 – Other crowdfunding distributions

For any crowdfunding distribution in which the issuer or an executive officer, director, promoter or control person of the issuer has been involved in the past five years, provide the information below:

For crowdfunding distributions that were started but the issuer did not receive any funds:

- (a) the full legal name of the issuer that made the distribution;
- (b) the date the distribution was discontinued.

For closed crowdfunding distributions:

- (a) the full legal name of the issuer that made the distribution;
- (b) the date that the distribution commenced and the date it closed;
- (c) the name and website address of the funding portal through which the distribution was made;
- (d) the amount raised;
- (e) the intended use of proceeds stated in the relevant crowdfunding offering document and the actual use of proceeds.

This information must be provided for each person that has been involved in a crowdfunding distribution in the past five years, whether with the issuer, or with another issuer.

ITEM 6 – WHAT YOU NEED TO KNOW ABOUT THE ISSUER

6.1 – Issuer’s business

Indicate which statement(s) best describe the issuer’s operations (select all that apply):

- has never conducted operations;
- is in the development stage;
- is currently conducting operations;
- has shown profit in the last financial year.

Briefly describe:

- (a) the nature of the issuer’s product(s) or service(s);
- (b) the industry in which the issuer operates;
- (c) the issuer’s long term business objectives;
- (d) the issuer’s assets and whether those assets are owned or leased.

6.2 – Related party relationships and transactions

For purposes of this item, a control person is a person or company that controls, directly or indirectly, more than 20% of the issuer’s voting securities prior to the closing of this distribution.

Family relationships

Are there any family relationships between any executive officers, directors, promoters or control persons? Y N

If yes, describe the nature of each relationship.

Proceeds to be raised

Will the issuer use any of the proceeds to be raised to:

- acquire assets or services from an executive officer, director, promoter or control person, or an associate of any of them? Y N
- loan money to any executive officer, director, promoter or control person, or an associate of any of them? Y N
- reimburse any executive officer, director, promoter or control person, or an associate of any of them, for assets previously acquired, services previously rendered, monies previously loaned or advanced, or for any other reason? Y N

If the answer to any of the above is “yes”, disclose the relationship between each person and the issuer and the principal terms of each transaction. If assets were acquired from a person, disclose the cost of the asset to the issuer and the method used to determine this cost. Disclose for each person who has been involved in more than one related party transaction, their relationship with the issuer and which of the transactions they have been involved with.

6.3 – Principal risks facing the business

Disclose the risks facing the issuer’s business that could result in a purchaser losing the value of the purchaser’s investment. Only those risks that are highly significant to the business should be disclosed. The risks should be disclosed in order of most to least significant.

In addition to disclosing the principal risks in this crowdfunding offering document, reporting issuers may incorporate by reference the risk disclosure in their continuous disclosure documents (for example, their annual information form or management discussion & analysis).

Instruction: Explain the risks of investing in the issuer for the purchaser in a meaningful way, avoiding overly general or “boilerplate” disclosure. Disclose both the risk and the factual basis for it. Risks can relate to the issuer’s business, its industry, its clients, etc.

Litigation

Disclose any litigation or administrative action that has had or is likely to have a material effect on the issuer's business. Include information not only about present pending litigation or administrative actions, but also past concluded litigation or administrative actions, and potential future claims of which the issuer is aware. Disclose the name of the court, agency or tribunal where the proceeding is pending, a description of the facts underlying the claim and the relief sought, or any information known to the issuer about pending litigation or administrative actions.

6.4 – Financial information

If the issuer is a non-reporting issuer, include the following statement, in bold type:

“The issuer’s financial statements have not been provided to or reviewed by a securities regulatory authority or regulator.”

Fiscal year end

Month and Day: _____

See Schedule A *Crowdfunding Offering Document – Financial Statement Requirements* to determine which financial statements must be attached to this crowdfunding offering document.

6.5 – Ongoing disclosure

Briefly describe how the issuer intends to communicate with purchasers.

Reporting issuer

If the issuer is a reporting issuer, state that the issuer is subject to reporting obligations under securities legislation and explain how a purchaser can access the issuer's continuous disclosure documents.

Non-reporting issuer

If the issuer is a non-reporting issuer:

- (a) state that the issuer has limited disclosure obligations under securities legislation and that the issuer is required to provide only annual financial statements and annual disclosure regarding use of proceeds;
- (b) state the nature and frequency of any other disclosure the issuer intends to provide to purchasers;

- (c) explain how purchasers can access the disclosure documents referred to in paragraphs (a) and (b).

In New Brunswick, Nova Scotia and Ontario, a non-reporting issuer must make available to each holder of a security acquired under the crowdfunding prospectus exemption, within 10 days of their occurrence, a notice of each of the following events:

- (a) a discontinuation of the issuer's business;
- (b) a change in the issuer's industry;
- (c) a change of control of the issuer.

6.6 – Capital structure

Disclose the following information:

- (a) the issuer's capital structure, including the terms and conditions of any other securities that are issued and outstanding as at the date of this crowdfunding offering document and the amount(s) that were paid for the securities;
- (b) using the calculation outlined below, the percentage of the issuer's outstanding securities that the securities being distributed will represent on the closing of the distribution:

$$\frac{A}{A + B} = \%$$

A - Number of securities being distributed under this distribution

B - Number of issued and outstanding securities as of the date of this crowdfunding offering document

Instruction: If the issuer has more than one class of outstanding securities, the calculation should be based only on the class of securities that is being distributed. If the securities being distributed are non-convertible debt securities, the calculation should be based on the face value of the debt securities;

- (c) the total number of securities reserved or subject to issuance under outstanding options, warrants or rights, the amount(s) that were paid for the securities, and the terms and conditions of those instruments.

6.7 – Connected issuers

If the issuer is a connected issuer to a funding portal, include the disclosure required by Appendix C to National Instrument 33-105 *Underwriting Conflicts* (NI 33-105).

Instruction: The definition of “connected issuer” is provided in NI 33-105.

6.8 – Management compensation

Reporting issuer

If the issuer is a reporting issuer, incorporate by reference the disclosure provided for purposes of item 3 of Form 51-102F6 *Statement of Executive Compensation* (**Form 51-102F6**) and other information disclosed in the issuer’s Form 51-102F6 as needed.

Non-reporting issuer

If the issuer is a non-reporting issuer, provide the following information in the format set out below for each director and the three most highly compensated executive officers (or all executive officers if there are fewer than three):

Name of person and position at issuer	Total compensation paid to that person during the 12 month period preceding commencement of this distribution		Total compensation expected to be paid to that person during the 12 month period following closing of this distribution	
	Cash (\$)	Other Compensation	Cash (\$)	Other Compensation

Instruction: Describe any non-cash compensation and how it was valued.

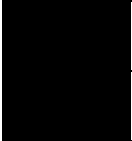
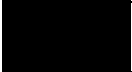
6.9 – Mining issuer disclosure

If the issuer is a mining issuer, state that the issuer is subject to the requirements of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (**NI 43-101**).

Instruction: Note that NI 43-101 applies to all issuers, including non-reporting issuers.

ITEM 7 – WHAT YOU NEED TO KNOW ABOUT THE FUNDING PORTAL

State that the issuer is using the services of a funding portal to offer its securities and provide the contact information of the funding portal below:

Full legal name of the funding portal	
Full website address of the funding portal	
Business email address of the funding portal	
Full legal name of the Chief Compliance Officer	
Full legal name of the contact person	
 Business address	
 Business telephone number	

Include the following statement:

“A purchaser can check if the funding portal is operated by a registered dealer at the following website: www.aretheyregistered.ca”

ITEM 8 – WHAT YOU NEED TO KNOW ABOUT YOUR RIGHTSReporting issuer

If the issuer is a reporting issuer, state that a purchaser has the following contractual rights in connection with the purchase of securities:

- (a) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right of action for damages or rescission if this crowdfunding offering document, or any document or video made available to a purchaser in addition to this crowdfunding offering document, contains a misrepresentation, and
- (b) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right to withdraw from an agreement to purchase securities distributed under this crowdfunding offering document by delivering a notice to the funding portal within 48 hours after the date of subscription.

Non-reporting issuer

If the issuer is a non-reporting issuer, state that a purchaser has the following contractual rights in connection with the purchase of securities:

- (a) a right of action for damages or rescission if this crowdfunding offering document, or any document or video made available to a purchaser in addition to this crowdfunding offering document, contains an untrue statement of a material fact, and
- (b) if the securities legislation of the jurisdiction in which the purchaser resides does not provide a comparable right, a right to withdraw from an agreement to purchase securities distributed under this crowdfunding offering document by delivering a notice to the funding portal within 48 hours after the date of subscription.

Disclose how a purchaser can find more information about these rights and how to exercise them. The disclosure should include who a purchaser needs to contact, how a purchaser can contact that person and the deadline for a purchaser to do so in order to exercise their rights. The issuer may choose to include a link to the relevant portion of the funding portal's website.

ITEM 9 – OTHER RELEVANT INFORMATION

State any other facts that would likely be important to a purchaser purchasing securities under this crowdfunding offering document.

ITEM 10 – DOCUMENTS INCORPORATED BY REFERENCE IN THIS CROWDFUNDING OFFERING DOCUMENT

If the issuer is a reporting issuer, include the following disclosure and provide the required information in the table below:

Information has been incorporated by reference into this crowdfunding offering document from documents listed in the table below, which have been filed with the securities regulatory authorities or regulators in Canada. The documents incorporated by reference are available for viewing on the SEDAR website at www.sedar.com.

Documents listed in the table and information provided in those documents are not incorporated by reference to the extent that their contents are modified or superseded by a statement in this crowdfunding offering document or in any other subsequently filed document that is also incorporated by reference in this crowdfunding offering document.

Description of document (in the case of material change reports, provide a brief description of the nature of the material change)	Date of document

ITEM 11 - CERTIFICATE

11.1 - Insert the date of this crowdfunding offering document and the date it was made available to purchasers through the funding portal and include the following statement, in bold type:

For reporting issuers:

“This crowdfunding offering document does not contain a misrepresentation. Purchasers of securities have a right of action in the case of a misrepresentation.”

For non-reporting issuers:

“This crowdfunding offering document does not contain an untrue statement of a material fact. Purchasers of securities have a right of action in the case of an untrue statement of a material fact.”

11.2 - For both reporting and non-reporting issuers, provide the signature, date of the signature, name and position of each individual certifying this crowdfunding offering document.

11.3 - If this crowdfunding offering document is signed electronically, include the following statement for each individual certifying the document, in bold type:

“I acknowledge that I am signing this crowdfunding offering document electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding.”

Instruction: See Appendix A of Multilateral Instrument 45-108 Crowdfunding to determine who is required to certify this crowdfunding offering document.

Securities regulatory authorities and regulators of the participating jurisdictions:

Alberta	<p>The Alberta Securities Commission Suite 600, 250 – 5th Avenue SW Calgary, Alberta T2P 0R4 Telephone: 403-297-6454 Fax: 403-297-6156 E-mail: inquiries@asc.ca www.albertasecurities.com</p>
Manitoba	<p>The Manitoba Securities Commission 500 – 400 St Mary Avenue Winnipeg, Manitoba R3C 4K5 Telephone: 204-945-2548 Toll free in Manitoba: 1-800-655-2548 Fax: 204-945-0330 E-mail: exemptions.msc@gov.mb.ca www.msc.gov.mb.ca</p>
New Brunswick	<p>Financial and Consumer Services Commission 85 Charlotte Street, Suite 300 Saint John, New Brunswick E2L 2J2 Toll free: 1-866-933-2222 Fax: 506-658-3059 E-mail: info@fcnb.ca www.fcnb.ca</p>
Nova Scotia	<p>Nova Scotia Securities Commission Suite 400, 5251 Duke Street Halifax, Nova Scotia B3J 1P3 Telephone: 902-424-7768 Toll free in Nova Scotia: 1-855-424-2499 Fax: 902-424-4625 E-mail: nssc.crowdfunding@novascotia.ca www.nssc.gov.ns.ca</p>

Ontario

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Telephone: 416-593-8314
Toll-free (North America): 1-877-785-1555
Fax: 416-593-8122
E-mail: inquiries@osc.gov.on.ca
www.osc.gov.on.ca

Québec

Autorité des marchés financiers
Direction du financement des sociétés
800, rue du Square-Victoria, 22nd floor
P.O. Box 246, tour de la Bourse
Montréal, Québec H4Z 1G3
Telephone: 514-395-0337
Toll free in Québec: 1-877-525-0337
Fax: 514-873-3090
E-mail: financement-participatif@lautorite.qc.ca
www.lautorite.qc.ca

Schedule A

Crowdfunding Offering Document
Financial Statement Requirements

1. In this schedule

“Canadian Financial Statement Review Standards” means standards for the review of financial statements by a public accountant determined with reference to the Handbook;

“SEC issuer” means an SEC issuer as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“U.S. AICPA Financial Statement Review Standards” means the standards of the American Institute of Certified Public Accountants for a review of financial statements by a public accountant, as amended from time to time.

Reporting issuer

2. If the issuer is a reporting issuer, attach as an appendix to this crowdfunding offering document

- (a) the most recent annual financial statements the issuer has filed with the securities regulatory authority or regulator, and
- (b) the most recent interim financial report the issuer has filed with the securities regulatory authority or regulator for an interim period that is subsequent to the financial year covered by the annual financial statements referred to in paragraph (a).

Non-reporting issuer

3. If the issuer is not a reporting issuer

- (a) Attach as an appendix to this crowdfunding offering document the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (b) Despite paragraph (a), if the issuer has not completed a financial year, attach as an appendix to this crowdfunding offering document financial statements that include

- (i) a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for the period from the date of the formation of the issuer to a date not more than 90 days before the date of this crowdfunding offering document,
 - (ii) a statement of financial position as at the end of the period referred to in subparagraph (i), and
 - (iii) notes to the financial statements.
- (c) The financial statements referred to in paragraphs (a) and (b), and any other financial statements that are attached as an appendix to this crowdfunding offering document, must
- (i) be approved by management and be accompanied by
 - A. a review report or auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$250 000 or more but is less than \$750 000, or
 - B. an auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$750 000 or more,
 - (ii) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles - general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles - general requirements*], and subsection 3.2(5) [*Acceptable accounting principles - general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (iii) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (d) If the financial statements referred to paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
- (i) not include a reservation or modification,

- (ii) identify the financial periods that were subject to review,
 - (iii) be in the form specified by Canadian Financial Statement Review Standards, and
 - (iv) refer to IFRS as the applicable financial reporting framework.
- (e) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by an auditor's report, the auditor's report must be
- (i) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (ii) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (f) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are those of an SEC issuer,
- (i) the statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,
 - (ii) the financial statements may be reviewed in accordance with U.S. AICPA Financial Statement Review Standards and accompanied by a review report prepared in accordance with U.S. AICPA Financial Statement Review Standards that
 - A. does not include a modification or exception,
 - B. identifies the financial periods that were subject to review,
 - C. identifies the review standards used to conduct the review and the accounting principles used to prepare the financial statements, and
 - D. refers to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles - general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and

- (iii) the financial statements may be audited in accordance with section 3.8 [*Acceptable auditing standards for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (g) If the financial statements referred to in paragraph (f) are accompanied by a review report and the statements have been reviewed in accordance with Canadian Financial Statement Review Standards, the review report must be in compliance with subparagraphs 3(d)(i) to (iii) and must
 - (i) refer to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, or
 - (ii) refer to U.S. GAAP as the applicable financial reporting framework if the financial statements comply with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (h) For the purpose of paragraph (d) and subparagraph (f)(ii), the review report must be prepared and signed by a person or company authorized to sign a review report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.
- (i) If any of the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are not accompanied by an auditor's report or a review report prepared by a public accountant, the statements must include the following statement: "*These financial statements were not audited or subject to a review by a public accountant as permitted by securities legislation where an issuer has not raised more than a pre-defined amount under prospectus exemptions.*"

Instructions related to financial statement requirements and the disclosure of other financial information

What constitutes an issuer's first financial year - *The first financial year of an issuer commences on the date of its incorporation or organization and ends at the close of that financial year.*

What would be presented in an issuer's financial statements if the issuer has not completed a financial year - *The financial statements would include the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [Comparative annual financial statements and audit] of National Instrument 51-102 Continuous Disclosure Obligations for the period from the date of the formation of the issuer to a date not more than 90 days before the date of this crowdfunding offering document. The financial statements would not include a comparative period.*

What financial years need to be audited or reviewed - If an issuer is required to have an auditor's report or review report accompany its financial statements in accordance with subparagraph 3(c)(i) of this schedule, the financial statements for the most recent period and the comparative period, if any, are both required to be audited or are both required to be reviewed.

Statement required in annual financial statements that have not been audited or reviewed – Paragraph 3(i) of this schedule requires that if an issuer's annual financial statements are not accompanied by an auditor's report or a review report prepared by a public accountant, the financial statements must include a statement that discloses that fact. Consistent with the requirements set out in subparagraph 3(c)(i) of this schedule, an issuer's annual financial statements are not required to be audited or reviewed by a public accountant if the issuer has raised less than \$250,000 under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document.

What financial reporting framework is identified in the financial statements, and any accompanying auditor's report or review report - If an issuer's financial statements are prepared in accordance with Canadian GAAP for publicly accountable enterprises and include an unreserved statement of compliance with IFRS, the auditor's report or review report must refer to IFRS as the applicable financial reporting framework.

There are two options for referring to the financial reporting framework in the applicable financial statements and accompanying auditor's report or review report:

- (a) refer only to IFRS in the notes to the financial statements and in the auditor's report or review report, or
- (b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report or review report.

Non-GAAP financial measures - An issuer that intends to disclose non-GAAP financial measures in its crowdfunding offering document should refer to CSA guidance for a discussion of staff expectations concerning the use of these measures.

Proposed Form 45-108F2
Risk Acknowledgement

Instructions: This form must be completed by the purchaser before the purchaser enters into an agreement to purchase securities under the exemption in Multilateral Instrument 45-108 Crowdfunding.

Issuer name: i.e., ABC Company
Type of security offered: i.e., common share

WARNING!
BUYER BEWARE: This investment is risky.
Don't invest unless you can afford to lose all the money you pay for this investment.

	Yes	No
1. Risk acknowledgement		
Risk of loss – Do you understand that this is a risky investment and that you may lose all the money you pay for this investment?	<input type="checkbox"/>	<input type="checkbox"/>
Liquidity risk – Do you understand that you may never be able to sell this investment?	<input type="checkbox"/>	<input type="checkbox"/>
Lack of information – Do you understand that you may receive little ongoing information about the issuer and/or this investment?	<input type="checkbox"/>	<input type="checkbox"/>
No income – Do you understand that you may not earn any income, such as dividends or interest, on this investment?	<input type="checkbox"/>	<input type="checkbox"/>
2. No approval and no advice		
No approval – Do you understand that this investment has not been reviewed or approved in any way by a securities regulatory authority?	<input type="checkbox"/>	<input type="checkbox"/>
No advice – Do you understand that you will not receive advice about whether this investment is suitable for you to purchase? <i>[Instructions: Delete if the funding portal is operated by a registered investment dealer or exempt market dealer.]</i>	<input type="checkbox"/>	<input type="checkbox"/>

3. Limited legal rights		
Limited legal rights – Do you understand that you will not have the same rights as if you purchased under a prospectus or through a stock exchange? If you want to know more, you may need to seek professional legal advice.	<input type="checkbox"/>	<input type="checkbox"/>

INCLUDES COMMENT LETTERS

4. Purchaser's understanding of this investment

Investment risks – Have you read this form and do you understand the risks of making this investment?

Offering document – Before you invest, you should read the offering document carefully. The offering document contains important information about this investment. If you have not read the offering document or if you do not understand the information in it, you should not invest.

Have you read and do you understand the information in the offering document?

5. Purchaser's acknowledgement

First and last name:

Date:

Electronic signature: By clicking the 'I confirm' button, I acknowledge that I am signing this form electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding. The date of my electronic signature is the same as my acknowledgement.

6. Additional information

You have 48 hours to cancel your purchase from the date of the agreement to purchase the security and any amendment to the crowdfunding offering document of the issuer, by sending a notice to the funding portal at:
[Instructions: Provide an email address or a fax number where purchasers can send their notice. Describe any other way purchasers can cancel their purchase.]

To check if the funding portal is operated by a registered dealer, go to www.aretheyregistered.ca

If you want more information about your local securities regulatory authority, go to www.securities-administrators.ca

ANNEX D

Proposed Form 45-108F3
Confirmation of Investment Limits

Instructions: This form must be completed by the purchaser before the purchaser enters into an agreement to purchase securities under the exemption in Multilateral Instrument 45-108 Crowdfunding (the crowdfunding exemption) in Alberta and Ontario.

How you qualify to buy securities under the crowdfunding exemption: Checkmark the statement under A, B or C that applies to you. You may checkmark more than one statement. If you qualify under B or C, complete the confirmation of investment limits in the relevant section.

A. Permitted Client

You are a permitted client because:

- You are an individual who beneficially owns financial assets, as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions*, having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5 million.
- Other - you are a person or company that otherwise falls within the definition of a permitted client in section 1.1 of Part 1 in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Please specify the relevant category: _____.

B. Accredited Investor

You are an accredited investor because (check all that apply):

- Your net income before taxes was more than \$200,000 in each of the 2 most recent calendar years and you expect it to be more than \$200,000 in this calendar year. (You can find your net income before taxes on your personal income tax return.)
- Your net income before taxes combined with your spouse's was more than \$300,000 in each of the 2 most recent calendar years and you expect your combined net income before taxes to be more than \$300,000 in the current calendar year.
- Either alone or with your spouse, you own more than \$1 million in cash and securities, after subtracting any debt related to the cash and securities.
- Either alone or with your spouse, you have net assets worth more than \$5 million. (Your net assets are your total assets (including real estate) minus your total debt.)
- Other - you are a person or company that otherwise falls within the definition of an accredited investor as defined in section 1.1 of National Instrument 45-106 *Prospectus Exemptions* and, in Ontario, in subsection 73.3(1) of the *Securities Act*, R.S.O. 1990 c. S.5. Please specify the relevant category: _____.

Confirmation (if you are an accredited investor but not a permitted client)

- I confirm that, after taking into account my investment of \$_____ today in this issuer:
- I have not invested more than \$25,000 in a single crowdfunding investment, and
 - I have not invested more than \$50,000 in all of the crowdfunding investments I have made in this calendar year.

C. Retail Investor

You are a retail investor if none of the statements in the previous two sections apply to you.

Confirmation (if you are a retail investor)

- I confirm that, after taking into account my investment of \$_____ today in this issuer:
- I have not invested more than \$2,500 in a single crowdfunding investment, and
 - I have not invested more than \$10,000 in all of the crowdfunding investments I have made in this calendar year.

Purchaser acknowledgement

First and last name:

Date:

Electronic signature: By clicking the 'I confirm' button, I acknowledge that I am signing this form electronically and agree that this is the legal equivalent of my handwritten signature. I will not at any time in the future claim that my electronic signature is not legally binding. The date of my electronic signature is the same as my acknowledgement.

Funding portal information

This section must only be completed if an investor has received advice about this investment from a funding portal registered in the category of an investment dealer or an exempt market dealer.

First and last name of registered individual:

Telephone:

Email:

Name of firm:

Registration Category:

ANNEX E

Proposed Form 45-108F5
Personal Information Form and
Authorization to Collect, Use and Disclose Personal Information

Instructions: *This Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (the “Form”) is to be completed by every director, executive officer, and promoter of an eligible crowdfunding issuer relying on the crowdfunding prospectus exemption as set out in Multilateral Instrument 45-108 Crowdfunding.*

All Questions **All questions must have a response.** The response of “N/A” or “Not Applicable” will not be accepted for any questions, except Questions 1(B), 2(iii) and (v) and 5.

Questions 6 to 10 Please place a checkmark (√) in the appropriate space provided. If your answer to any of questions 6 to 10 is “YES”, you must, in an attachment, provide complete details, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. **Any attachment must be initialed by the person completing this Form.** Responses must consider all time periods.

If you have received a pardon under the *Criminal Records Act* (Canada) for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences, you must disclose the pardoned Offence in this Form. In such circumstances:

- (a) the appropriate written response would be “Yes, pardon granted on (date)”; and
- (b) you must provide complete details in an attachment to this Form.

DEFINITIONS

“Offence” An offence includes:

- (a) a summary conviction or indictable offence under the *Criminal Code* (Canada);
- (b) a quasi-criminal offence (for example under the *Income Tax Act* (Canada), the *Immigration and Refugee Protection Act* (Canada) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any Canadian or foreign jurisdiction);
- (c) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein; or
- (d) an offence under the criminal legislation of any other foreign jurisdiction;

“Proceedings” means:

- (a) a civil or criminal proceeding or inquiry which is currently before a court;
- (b) a proceeding before an arbitrator or umpire or a person or group of persons authorized by law to make an inquiry and take evidence under oath in the matter;
- (c) a proceeding before a tribunal in the exercise of a statutory power of decision making where the tribunal is required by law to hold or afford the parties to the proceeding an opportunity for a hearing before making a decision; or
- (d) a proceeding before a self-regulatory entity authorized by law to regulate the operations and the standards of practice and business conduct of its members (including where applicable, issuers listed on

a stock exchange) and individuals associated with those members and issuers, in which the self-regulatory entity is required under its by-laws, rules or policies to hold or afford the parties the opportunity to be heard before making a decision, but does not apply to a proceeding in which one or more persons are required to make an investigation and to make a report, with or without recommendations, if the report is for the information or advice of the person to whom it is made and does not in any way bind or limit that person in any decision the person may have the power to make;

“securities regulatory authority” or “SRA” means a body created by statute in any Canadian or foreign jurisdiction to administer securities law, regulation and policy (e.g. securities commission), but does not include an exchange or other self-regulatory entity;

“self-regulatory entity” or “SRE” means:

- (a) a stock, derivatives, commodities, futures or options exchange;
- (b) an association of investment, securities, mutual fund, commodities, or future dealers;
- (c) an association of investment counsel or portfolio managers;
- (d) an association of other professionals (e.g. legal, accounting, engineering); and
- (e) any other group, institution or self-regulatory organization, recognized by a securities regulatory authority, that is responsible for the enforcement of rules, policies, disciplines or codes under any applicable legislation, or considered an SRE in another country.

1. Identification of individual completing form

A.	Last name(s):		First name(s):			Full middle name(s) (No initials. If none, please state):	
	Name(s) most commonly known by:						
	Name of issuer:						
	Present or proposed position(s) with the issuer (check (√) all positions below that are applicable)		(√)	If director / executive officer disclose the date elected / appointed			If executive officer – provide title
				MM	DD	YY	If other – provide details
	Director						
	Executive Officer						
Promoter							

B.	Other than the name given in Question 1A above, provide any legal names, assumed names or nicknames under which you have carried on business or have otherwise been known, including information regarding any name change(s) resulting from marriage, divorce, court order or any other process. Use an attachment if necessary.					From		To	
						MM	YY	MM	YY
C.	Gender		Date of birth			Place of birth			
	Male	<input type="checkbox"/>	MM	DD	YYYY	City	Province/State	Country	
	Female	<input type="checkbox"/>							
D.	Marital Status:			Full name of spouse (include common law):			Occupation of spouse:		
E.	Telephone and Facsimile Numbers and Email Address								
	Residential/ Cellular: ()					Facsimile: ()			
	Business: ()					E-mail*:			

*Provide an email address that the funding portal may use to contact you regarding this form. Where the securities regulatory authority or regulator (as defined in section 1.1 of National Instrument 14-101 *Definitions*) has requested the funding portal to provide it with this form, the securities regulator authority or regulator may also use the email address to contact you. This email address may be used to exchange personal information relating to you.

F.	Residential history						
	Provide all residential addresses for the past 10 YEARS starting with your current principal residential address. If you are unable to recall the complete residential address for a period, which is beyond 5 years from the date of completion of this Form, the municipality and province or state and country must be identified. The funding portal reserves the right to require the full address.						
	Street address, city, province/state, country & postal/zip code			From		To	
				MM	YY	MM	YY

INCLUDES COMMENT LETTERS

Yes	No
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2. Citizenship

(i)	Are you a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
(ii)	Are you a person lawfully in Canada as an immigrant but are not yet a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
(iii)	If “Yes” to Question 2(ii), the number of years of continuous residence in Canada:		
(iv)	Do you hold citizenship in any country other than Canada?	<input type="checkbox"/>	<input type="checkbox"/>
(v)	If “Yes” to Question 2(iv), the name of the country(ies):		

3. Employment history

Provide your complete employment history for the **5 YEARS** immediately prior to the date of this Form starting with your current employment. Use an attachment if necessary. If you were unemployed during this period of time, state this and identify the period of unemployment.

Employer name	Employer address	Position held	From		To	
			MM	YY	MM	YY

							Yes	No
4. Involvement with issuers								
A.	Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any issuer?						<input type="checkbox"/>	<input type="checkbox"/>
B.	If "YES" to 4A above, provide the names of each issuer. State the position(s) held and the period(s) during which you held the position(s). Use an attachment if necessary.							
	Name of issuer	Position(s) held	Market traded on	From		To		
				MM	YY	MM	YY	
C.	While you were a director, officer or insider of an issuer, did any exchange or other self-regulatory entity ever refuse approval for listing or quotation of the issuer, including (i) a listing resulting from a business combination, reverse takeover or similar transaction involving the issuer that is regulated by an SRE or SRA, (ii) a backdoor listing or qualifying acquisition involving the issuer (as those terms are defined in the TSX Company Manual as amended from time to time) or (iii) a qualifying transaction, reverse takeover or change of business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended from time to time)? If yes, attach full particulars.						Yes	No
							<input type="checkbox"/>	<input type="checkbox"/>

5. Educational history

A. Professional designation(s)						
Identify any professional designation held and professional associations to which you belong, for example, Barrister & Solicitor, C.P.A., C.A., C.M.A., C.G.A., P.Eng., P.Geol., CFA, etc. and indicate which organization and the date the designations were granted.						
Professional Designation and Membership Number	Grantor of designation and Canadian or Foreign Jurisdiction	Date granted				
		MM		YY		
Describe the current status of any designation and/or association (e.g. active, retired, non-practicing, suspended).						
B. Provide your post-secondary educational history starting with the most recent.						
School	Location	Degree or diploma	Date obtained			
			MM		DD	

Yes	No
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6. Offences

If you answer “YES” to any item in Question 6, you must provide complete details in an attachment. **If you have received a pardon under the Criminal Records Act (Canada) for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences, you must disclose the pardoned Offence in this Form.**

A.	Have you ever, in any Canadian or foreign jurisdiction, pled guilty to or been found guilty of an Offence?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Are you the subject of any current charge, indictment or proceeding for an Offence, in any Canadian or foreign jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
C.	To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events that resulted in the issuer:		
	(i) pleading guilty to or being found guilty of an Offence?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) now being the subject of any charge, indictment or proceeding for an alleged Offence?	<input type="checkbox"/>	<input type="checkbox"/>

Yes	No
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7. Bankruptcy

If you answer “YES” to any item in Question 7, you must provide complete details in an attachment and attach a copy of any discharge, release or other applicable document. You must answer “YES” or “NO” for EACH of (A), (B) and (C) below.

A.	Have you, in any Canadian or foreign jurisdiction, within the past 10 years had a petition in bankruptcy issued against you, made a voluntary assignment in bankruptcy, made a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors, or had a receiver, receiver-manager or trustee appointed to manage your assets?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Are you now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>
C.	To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events, or for a period of 12 months preceding the time of events, where the issuer:		
	(i) has made a petition in bankruptcy, a voluntary assignment in bankruptcy, a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors or had a receiver, receiver-manager or trustee appointed to manage the issuer’s assets?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) is now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
8. Proceedings			
If you answer "YES" to any item in Question 8, you must provide complete details in an attachment.			
A.	Current proceedings by securities regulatory authority or self regulatory entity. Are you now, in any Canadian or foreign jurisdiction, the subject of:		
	(i)	a notice of hearing or similar notice issued by an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>
	(ii)	a proceeding of or, to your knowledge, an investigation by, an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>
	(iii)	settlement discussions or negotiations for settlement of any nature or kind whatsoever with an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>
B.	Prior proceedings by securities regulatory authority or self regulatory entity. Have you <u>ever</u> :		
	(i)	been reprimanded, suspended, fined, been the subject of an administrative penalty, or been the subject of any proceedings of any kind whatsoever, in any Canadian or foreign jurisdiction, by an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>
	(ii)	had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended by an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>
	(iii)	been prohibited or disqualified by an SRA or SRE under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer or been prohibited or restricted by an SRA or SRE from acting as a director, officer or employee of, or an agent or consultant to, a reporting issuer?	<input type="checkbox"/> <input type="checkbox"/>
	(iv)	had a cease trading or similar order issued against you or an order issued against you by an SRA or SRE that denied you the right to use any statutory prospectus or registration exemption?	<input type="checkbox"/> <input type="checkbox"/>
	(v)	had any other proceeding of any kind taken against you by an SRA or SRE?	<input type="checkbox"/> <input type="checkbox"/>

C.	Settlement agreement(s)		
	Have you ever entered into a settlement agreement with an SRA, SRE, attorney general or comparable official or body, in any Canadian or foreign jurisdiction, in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct, or any other settlement agreement with respect to any other violation of securities legislation in a Canadian or foreign jurisdiction or the rules, by-laws or policies of any SRE?	<input type="checkbox"/>	<input type="checkbox"/>
D.	To the best of your knowledge, are you now or have you ever been a director, officer, promoter, insider, or control person of an issuer at the time of such event, in any Canadian or foreign jurisdiction, for which a securities regulatory authority or self-regulatory entity has:		
	(i) refused, restricted, suspended or cancelled the registration or licensing of an issuer to trade securities, exchange or commodity futures contracts, or to sell or trade real estate, insurance or mutual fund products?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) issued a cease trade or similar order or imposed an administrative penalty of any nature or kind whatsoever against the issuer, other than an order for failure to file financial statements that was revoked within 30 days of its issuance?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii) refused a receipt for a prospectus or other offering document, denied any application for listing or quotation or any other similar application, or issued an order that denied the issuer the right to use any statutory prospectus or registration exemptions?	<input type="checkbox"/>	<input type="checkbox"/>
	(iv) issued a notice of hearing, notice as to a proceeding or similar notice against the issuer?	<input type="checkbox"/>	<input type="checkbox"/>
	(v) commenced any other proceeding of any kind against the issuer, including a trading halt, suspension or delisting of the issuer, in connection with an alleged or actual contravention of an SRA's or SRE's rules, regulations, policies or other requirements, but excluding halts imposed (i) in the normal course for proper dissemination of information, or (ii) pursuant to a business combination, reverse takeover or similar transaction involving the issuer that is regulated by an SRE or SRA, including a qualifying transaction, reverse takeover or change of business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended from time to time)?	<input type="checkbox"/>	<input type="checkbox"/>
	(vi) entered into a settlement agreement with the issuer in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct by the issuer, or any other violation of securities legislation or the rules, by-laws or policies of an SRE?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
9. Civil proceedings			
If you answer "YES" to any item in Question 9, you <u>must</u> provide complete details in an attachment.			
A.	Judgment, garnishment and injunctions Has a court in any Canadian or foreign jurisdiction:		
	(i) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>you</u> in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>an issuer</u> , of which you are currently or have ever been a director, officer, promoter, insider or control person in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Current claims		
	(i) Are <u>you</u> now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that is now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
C.	Settlement agreement		

(i) Have <u>you</u> ever entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that has entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>

Yes

No

10. Involvement with other entities

		Yes	No
A.	Has your employment in a sales, investment or advisory capacity with any employer engaged in the sale of real estate, insurance or mutual funds ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>
B.	Has your employment with a firm or company registered under the securities laws of any Canadian or foreign jurisdiction as a securities dealer, broker, investment advisor or underwriter, ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>
C.	Has your employment as an officer of an issuer ever been suspended or terminated for cause? If yes, attach full particulars.	<input type="checkbox"/>	<input type="checkbox"/>

CERTIFICATE AND CONSENT

hereby certify that:

 (Please Print – Name of Individual)

- (a) I have read and understand the questions, cautions, acknowledgement and consent in the personal information form to which this certificate and consent is attached or of which this certificate and consent forms a part (the “**Form**”), and the answers I have given to the questions in the Form and in any attachments to it are correct, except where stated to be answered to the best of my knowledge, in which case I believe the answers to be correct;
- (b) I have been provided with and have read and understand the Personal Information Collection Policy (the “**Personal Information Collection Policy**”) attached hereto as Schedule 1;
- (c) I consent to the collection, use and disclosure by the funding portal of the information in the Form and to the collection, use and disclosure by the funding portal of further personal information in accordance with the Personal Information Collection Policy;
- (d) I understand that the funding portal may use a third party to conduct the criminal record and background checks and I consent to the use and disclosure by the funding portal to the third party of the information in the Form and to the collection, use and disclosure by the third party of the information in the Form and of further personal information in order to provide these services to the funding portal;
- (e) I am aware that I am providing the Form to a funding portal, who upon request, will provide the Form and all further personal information in accordance with the Personal Information Collection Policy to the securities regulatory authorities or regulators (as defined in section 1.1 of National Instrument 14-101 *Definitions*) and consent to such disclosure to, and the collection, use and disclosure by, the securities regulatory authorities or regulators and I understand that I am under the jurisdiction of the securities regulatory authorities and the regulators to which this Form may be provided, and that it is a breach of securities legislation to provide false or misleading information to the securities regulatory authorities and the regulators.

Date

Signature of Person Completing this Form

SCHEDULE 1 PERSONAL INFORMATION COLLECTION POLICY

The funding portal collects, uses and discloses personal information from every director, executive officer, and promoter of an issuer relying on the crowdfunding prospectus exemption for the purpose of complying with its obligations under Multilateral Instrument 45-108 *Crowdfunding* (“**MI 45-108**”), including conducting criminal record and background checks; verifying the information provided in the Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (the “**Personal Information Form**”); reviewing the crowdfunding offering document and other materials for incorrect, incomplete and misleading information; identifying whether the issuer or any of its directors, executive officers, or promoters has been convicted of an offence related to or has entered into a settlement agreement in a matter that involved fraud or securities law violations; and making a good faith determination as to whether (i) the business of the issuer may not be conducted with integrity; (ii) the issuer is not complying with one or more of its obligations under MI 45-108; and (iii) the crowdfunding offering document and other materials contain a statement or information that constitutes a misrepresentation or an untrue statement of a material fact.

You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to the funding portal collecting and using your personal information in the Personal Information Form, as well as any other information that may be necessary for the purposes described above (the “Information”).

You also understand and agree that the Information the funding portal collects about you may also be disclosed, as permitted by law, where its use and disclosure is for the purposes described above. The funding portal may use a third party to conduct the criminal record and background checks and to process the Information, but when this happens, the third party will be carefully selected and obligated to comply with the limited use restrictions described above and with applicable privacy legislation. You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to the funding portal disclosing your Information to, and to the collection, use and disclosure of your Information by, the third party service provider for the purposes of providing these services to the funding portal.

You understand that the funding portal, upon request of the securities regulatory authorities or regulators (as defined in section 1.1 of National Instrument 14-101 *Definitions*), is required to deliver the Information to the securities regulatory authorities or regulators because the issuer has relied upon the crowdfunding prospectus exemption. The securities regulatory authorities and the regulators collect, use and disclose the Information under the authority granted to them under provincial securities legislation for the purpose of enabling the securities regulatory authorities and regulators to administer and enforce provincial securities legislation. You understand that by signing the certificate and consent in the Personal Information Form, you are consenting to disclosure of your Information by the funding portal to the securities regulatory authorities and regulators upon their request.

You also understand that you have a right to be informed of the existence of personal information about you that is kept by funding portals, securities regulatory authorities and regulators, that you have the right to request access to that information, and that you have the right to request that such information be corrected, subject to the provisions of the applicable privacy legislation.

Warning: It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

Questions: If you have any questions about the collection, use, and disclosure of the information you provide, you may contact the funding portal at: *[Instructions: Provide an address and telephone number where an individual who has provided personal information can contact the funding portal.]*

ANNEX F

Proposed Companion Policy 45-108 *Crowdfunding*

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PREAMBLE TO COMPANION POLICY

Purpose of this Companion Policy

This Companion Policy sets out how the participating members of the Canadian Securities Administrators (CSA) (the “**participating CSA members**” or “**we**”) interpret or apply the provisions of Multilateral Instrument 45-108 *Crowdfunding* (the “**Instrument**”), including the required forms, and related securities legislation.

The Instrument provides

- (a) in Part 2, a prospectus exemption for eligible crowdfunding issuers that wish to make a crowdfunding distribution,
- (b) in Part 3, the registration requirements for funding portals, and
- (c) in Part 4, who can grant exemptions from the Instrument.

References to the Instrument

Except for Part 1, all references in this Companion Policy to parts, divisions and sections are to the Instrument, unless otherwise noted. Any general guidance for a part or a division appears immediately after the reference to that part or division name. Any specific guidance on sections in the Instrument follows any general guidance. If there is no guidance for a part, division or section, the numbering in this Companion Policy will skip to the next provision that does have guidance.

Models of crowdfunding

Crowdfunding is a method of funding a project or venture through amounts of money raised from members of the public over the internet via an online portal. There are at least four examples of crowdfunding models:

- (a) the donation model, which is the practice of the crowd donating to a project or venture in exchange for nothing of tangible value;
- (b) the reward model, which is the practice of the crowd donating to a project or venture in exchange for some tangible reward, perk or benefit;
- (c) the pre-purchase model, which is the practice of the crowd donating to a project or venture in exchange for a future tangible reward, such as a consumer product; and
- (d) the securities-based model, which is the practice of the crowd investing in an issuer and its business in exchange for the issuer’s securities, which are often equity securities but may include other types of securities, including debt securities.

Applicability of securities legislation

In this Companion Policy, when we refer to a “crowdfunding offering”, we are referring to a distribution of securities made in reliance on the crowdfunding prospectus exemption through a funding portal as described in the Instrument.

Crowdfunding activities that are limited to the donation model, reward model and/or pre-purchase model generally will not constitute or involve a distribution of securities. However, crowdfunding offerings using the securities-based model will involve an offering of securities. Issuers that wish to make a crowdfunding offering using the securities-based model will always be subject to securities legislation.

Securities-based and non-securities-based crowdfunding

An issuer may wish to include both securities and non-securities rewards or benefits in a crowdfunding offering. Permitting an issuer to do so may enable an issuer to derive the benefits of both securities-based and non-securities based crowdfunding. An issuer must disclose in item 5.1 of the crowdfunding offering document a description of any additional rewards or benefits being offered that are not securities.

All distributions and other trades are subject to securities legislation

The securities legislation of a local jurisdiction applies to any distribution of a security in that jurisdiction, whether or not the issuer of the security is an issuer in that jurisdiction. A person or company who engages in a distribution must comply with the securities legislation of each jurisdiction in which the distribution occurs. That may include the requirement that such person or company be registered under securities legislation.

A funding portal that carries on business in a jurisdiction (either by facilitating offerings of issuers in that jurisdiction and/or by facilitating offerings to investors in that jurisdiction) must be registered in that jurisdiction.

Multi-jurisdictional distributions

A distribution can occur in more than one jurisdiction. If it does, the person or company conducting the distribution must comply with the securities legislation of each jurisdiction in which the distribution occurs. For example, a distribution from a person or company in Québec to a purchaser in Ontario may be considered a distribution in both jurisdictions.

PART 1 DEFINITIONS AND INTERPRETATION

Defined terms used in this Companion Policy have the meaning ascribed to them in the Instrument unless otherwise noted.

Terms defined or interpreted in other instruments

- (1) Director – The term “director” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.
- (2) Officer – The term “officer” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.
- (3) Principal Regulator – A registered dealer funding portal’s principal regulator generally will be determined in accordance with section 4A.1 of Multilateral Instrument 11-102 *Passport System*. This means that the principal regulator will usually be the securities regulatory authority or regulator in the jurisdiction where the funding portal’s head office is located.

- (4) Funding portal – There are two types of funding portals that can facilitate distributions of securities in reliance on the crowdfunding prospectus exemption:
- (a) a funding portal registered in the category of restricted dealer and defined in the Instrument as a restricted dealer funding portal; or
 - (b) a funding portal registered in the category of investment dealer or exempt market dealer and defined in the Instrument as a registered dealer funding portal.
- (a) *Restricted dealer funding portal*

The restricted dealer category is described in paragraph 7.1(2)(e) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* and permits specialized dealers or other intermediaries with an unconventional business model to carry on a limited trading business, subject to terms and conditions restricting their activities. The restricted dealer funding portal is intended to be a specialized type of restricted dealer with limited permitted dealing activities as described in section 41 [*Permitted dealing activities*]. Accordingly, the regulatory framework for a restricted dealer funding portal described in Part 3, including the exemptions from certain usual registrant requirements described in subparagraph 21(b)(ii)[*Restricted dealer funding portal*], is not available to other types of registrants that facilitate the sale of securities through an online portal. A restricted dealer funding portal will not be permitted to obtain dual registration in another registration category.

Except in Alberta and Ontario, a restricted dealer funding portal may be affiliated with another registered dealer, registered adviser or registered investment fund manager. A restricted dealer funding portal that is affiliated with another registered firm must establish internal controls and appropriate policies and procedures to manage the risks associated with operating an affiliated restricted dealer funding portal. A restricted dealer funding portal should refer to section 13.4 of Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (31-103CP)* to consider ways to identify and respond to conflicts of interest, including avoiding the conflict if it is significant and cannot be managed appropriately. In addition, a restricted dealer funding portal should be aware of other CSA guidance on registrant obligations to identify and respond to conflicts of interest.

- (b) *Registered dealer funding portal*

We recognize that other categories of registered dealers, such as investment dealers and exempt market dealers, may operate online portals that facilitate distributions of securities in reliance on other prospectus exemptions, such as the accredited investor exemption in section 2.3 of National Instrument 45-106 *Prospectus Exemptions (NI 45-106)* or the offering memorandum exemption in section 2.9 of NI 45-106. An investment dealer or exempt market dealer may facilitate distributions of securities in reliance on the crowdfunding prospectus exemption; however, they are required to comply with all of their registrant obligations under securities legislation and Divisions 1 and 2 of Part 3.

- (5) Registered individual – The term “registered individual” is defined in NI 31-103 and ordinarily refers to an individual who is registered as the ultimate designated person (**UDP**), chief compliance officer (**CCO**) or a dealing or advising representative of a registered firm. A restricted dealer funding portal is not permitted to provide recommendations or advice to purchasers. Therefore, we do not expect a restricted dealer funding portal will require an individual registered as a dealing or advising representative.

PART 2 CROWDFUNDING PROSPECTUS EXEMPTION

Division 1: Distribution requirements

Reporting and non-reporting issuers – The definition of “eligible crowdfunding issuer” in section 1 [Definitions] outlines certain requirements for the issuer to be eligible to rely on the crowdfunding prospectus exemption. Subject to satisfying these requirements, the crowdfunding prospectus exemption is available to both reporting issuers and non-reporting issuers.

Crowdfunding prospectus exemption

- 5.(1) Distribution period – The Instrument contemplates a distribution period that, in accordance with paragraph 5(1)(a) [Crowdfunding prospectus exemption], must end no later than 90 days after the date the issuer first offers its securities to purchasers under the crowdfunding prospectus exemption. If an issuer cannot complete an offering within the distribution period, the distribution period will expire. An issuer may commence a new crowdfunding offering so long as the issuer is in compliance with subsection 5(2) [Crowdfunding prospectus exemption].

Issuer group limit – Paragraph 5(1)(b) [Crowdfunding prospectus exemption] imposes a \$1 500 000 limit on the aggregate proceeds that can be raised by an issuer group under the crowdfunding prospectus exemption within the 12-month period ending on the last day of the distribution period. For example, suppose an issuer group consists of Issuer A, Issuer B and Issuer C. Issuer A proposes to distribute securities under the crowdfunding prospectus exemption and the last day of the distribution period will be March 15, 2015. In this case, the 12-month period to which the \$1 500 000 limit applies will commence on March 16, 2014 and end on March 15, 2015. If Issuer B has raised \$600 000 under the crowdfunding prospectus exemption during that same 12 month period (i.e., March 16, 2014 to March 15, 2015), the maximum amount Issuer A could raise under the crowdfunding prospectus exemption will be \$900 000 (\$1 500 000 minus \$600 000).

If, in addition, Issuer C proposes to raise a maximum of \$300 000 in a concurrent distribution under the crowdfunding prospectus exemption that will end on or prior to March 15, 2015, since this is within the same 12 month period, the maximum amount Issuer A could now raise under the crowdfunding prospectus exemption will be \$600 000 (\$1 500 000 minus (\$600 000 + \$300 000)) in order to ensure compliance with the \$1 500 000 offering limit for the issuer group.

Investment Limits – Paragraphs 5(1) (c) and (d) [Crowdfunding prospectus exemption] impose investment limits on purchasers of securities distributed under the crowdfunding prospectus exemption. In all the jurisdictions, a purchaser that is not an accredited investor is subject to an investment limit of \$2 500 per distribution and in Alberta and Ontario such purchaser is also subject to an annual investment limit of \$10 000 for all distributions made in reliance on the crowdfunding prospectus exemption in the same calendar year. In all jurisdictions, an accredited investor is subject to an investment limit of \$25 000 per distribution and in Alberta and Ontario an accredited investor is also subject to an annual investment limit of \$50 000 for all distributions made in reliance on the crowdfunding prospectus exemption in the same calendar year. In Alberta and Ontario, an investor that is a permitted client is not subject to an investment limit.

- 5.(2) The crowdfunding prospectus exemption is not available to an issuer if any of the conditions in subsection 5(2) [Crowdfunding prospectus exemption] apply. For example, an issuer that uses the

proceeds to invest in, merge with or acquire an unspecified business, commonly referred to as a blind pool, is excluded from using the crowdfunding prospectus exemption.

Conditions for closing of the distribution

6. Concurrent distributions – Eligible securities are defined in section 1 [*Definitions*]. An eligible crowdfunding issuer can distribute securities under other prospectus exemptions, such as the accredited investor exemption in section 2.3 of NI 45-106 or the offering memorandum exemption in section 2.9 of NI 45-106, during the distribution period. Securities distributed under other prospectus exemptions do not need to have the same price, terms and conditions as those distributed under the crowdfunding prospectus exemption. However, the issuer must ensure compliance with the conditions of the prospectus exemption being relied upon for the distribution. Information about any concurrent distribution, including a concurrent distribution by a member of the issuer group, must be disclosed in the crowdfunding offering document.

Risk acknowledgement form – The issuer must ensure upon closing of the distribution that they receive from the funding portal a Form 45-108F2 *Risk Acknowledgement (Form 45-108F2)* from each purchaser in which the purchaser has positively responded to each question in Form 45-108F2.

Confirmation of investment limits – In each jurisdiction other than Alberta and Ontario the issuer must ensure upon closing of the distribution that they receive from the funding portal confirmation that the purchaser is an accredited investor if the acquisition cost is greater than \$2 500. In Alberta and Ontario the issuer must receive a Form 45-108F3 *Confirmation of investment limits (Form 45-108F3)* for each purchaser regardless of the acquisition cost to the purchaser.

Closing of the distribution – If the closing of the distribution does not take place within 30 days of the end of the distribution period, the funding portal is required to promptly return to the purchaser all funds and assets received from a purchaser in connection with the distribution under the crowdfunding prospectus exemption.

Liability for misrepresentation – reporting issuers

9. In Ontario, the crowdfunding offering document required to be filed by an issuer under the Instrument is considered to be an offering memorandum and the rights available under section 130.1 of the *Securities Act* (Ontario) apply. Refer to Ontario Securities Commission (OSC) Rule 45-501 *Ontario Prospectus and Registration Exemptions* and the related Companion Policy for more information. Under section 9 [*Liability for misrepresentation – reporting issuers*], an issuer must provide a purchaser with a contractual right equivalent to the right in section 130.1 of the *Securities Act* (Ontario) for any materials made available to a purchaser in addition to the crowdfunding offering document, if the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right.

In Québec, the crowdfunding offering document and any other materials that are made available to purchasers by a reporting issuer are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus in regards to which rights of action established in section 217 to 221 of *Securities Act* (Québec) may be exercised.

In Nova Scotia, the crowdfunding offering document required to be filed by an issuer under the Instrument is considered to be an offering memorandum and the rights available under section 138 of the *Securities Act* (Nova Scotia) apply. Refer to Nova Scotia Securities Commission Rule

45-501 *Statutory Liability for Misrepresentations in an Offering Memorandum Under Certain Exemptions From the Prospectus Requirement* and the related Companion Policy for more information. Under section 9 [*Liability for misrepresentation – reporting issuers*], an issuer must provide a purchaser with a contractual right equivalent to the right in section 138 of the *Securities Act* (Nova Scotia) for any materials made available to a purchaser in addition to the crowdfunding offering document.

In Alberta, a crowdfunding offering document, including all amendments to such document, has been designated as an offering memorandum and the rights available under section 204 of the *Securities Act* (Alberta) apply. Refer to Alberta Securities Commission Designation Order ** *Designation of Crowdfunding Offering Document as an Offering Memorandum*.

Liability for untrue statement – non-reporting issuers

10. The crowdfunding offering document required to be filed by an issuer that is not a reporting issuer must contain a contractual right of action against the issuer for rescission and damages that is available to the purchaser if the crowdfunding offering document or other permitted materials made available to the purchaser contains an untrue statement of a material fact.

Advertising and general solicitation

11. An eligible crowdfunding issuer cannot advertise the distribution or solicit purchasers, except as permitted in subsection 11(2) [*Advertising and general solicitation*]. An issuer may inform purchasers, including the issuer’s customers and clients, that the issuer is proposing to offer its securities under the crowdfunding prospectus exemption and refer the customers and clients to the funding portal facilitating the distribution. This direction can be provided through the use of social media or in paper format. However, in all cases, the direction must be limited to directing the purchasers, including the issuer’s customers and clients, to the funding portal’s online platform to obtain relevant information about the distribution.

We anticipate that issuers will want to use social media to harness the “wisdom of the crowd” in a crowdfunding offering. Although an issuer cannot advertise the distribution or solicit purchasers, an issuer may participate in communication channels or discussion boards to encourage purchasers to discuss the crowdfunding distribution, if the funding portal establishes one. An issuer is reminded that it cannot post any statement or information on the funding portal’s online platform that is inconsistent with the crowdfunding offering document or the Instrument.

Commissions or fees

13. Section 13 [*Commissions or fees*] prohibits payment of a commission, finder’s fee, referral fee or similar payment by any person or company in the issuer group to any person or company in connection with a crowdfunding distribution, other than to a funding portal. This is meant to mitigate against potential conflicts of interest. However, this restriction is not intended to prohibit payments to persons or companies as compensation for their services to an issuer in preparing materials in connection with a crowdfunding offering, such as accounting or legal fees.

Division 2: Ongoing disclosure requirements for non-reporting issuers

Division 2 [*Ongoing disclosure requirements for non-reporting issuers*] prescribes ongoing disclosure obligations for non-reporting issuers that distribute securities under the crowdfunding prospectus exemption.

Non-reporting issuers are required to make available to the purchaser certain ongoing disclosure documents. These include annual financial statements, notices disclosing the use of proceeds, and in New Brunswick, Nova Scotia and Ontario, notices of specified key events. We anticipate issuers generally will choose to make these documents available to purchasers electronically. However, an issuer may also make these documents available in paper format. We expect an issuer to take reasonable steps to ensure that all purchasers receive or have access to the documents promptly.

We consider ongoing disclosure documents to have been made reasonably available to each holder of a security acquired under the crowdfunding prospectus exemption if the documents are made available through the funding portal or are mailed to security holders, or if security holders receive an electronic notice that the annual financial statements, the notices disclosing the use of proceeds, and in New Brunswick, Nova Scotia and Ontario, the notices of specified key events can be viewed on a public website of the issuer or a website accessible by all holders of securities of the issuer that were acquired under the crowdfunding prospectus exemption (such as a password protected website).

For reporting issuers that distribute securities under the crowdfunding prospectus exemption, all applicable continuous disclosure obligations under securities legislation continue to apply.

Annual financial statements

16. What constitutes an issuer's first financial year? - The first financial year of an issuer commences on the date of its incorporation or organization and ends at the close of that financial year.

What financial years need to be audited or reviewed? - If an issuer is required to have an auditor's report or review report accompany its financial statements in accordance with paragraph 16(2)(a) [*Annual financial statements*], the financial statements for the most recent period and the comparative period, if any, are both required to be audited or are both required to be reviewed.

Statement required in annual financial statements that have not been audited or reviewed – Subsection 16(8) [*Annual financial statements*] requires that if an issuer's annual financial statements are not accompanied by an auditor's report or a review report prepared by a public accountant, the financial statements must include a statement which discloses that fact. As set out in subsection 16(2) [*Annual financial statements*], an issuer's annual financial statements are not required to be audited or reviewed by a public accountant if the issuer has raised less than \$250 000 under one or more prospectus exemptions from the date of its formation until the end of its most recently completed financial year.

What financial reporting framework is identified in the financial statements and in any accompanying auditor's report or review report? – If an issuer's financial statements are prepared in accordance with Canadian GAAP for publicly accountable enterprises and include an unreserved statement of compliance with IFRS, the auditor's report or review report must refer to IFRS as the applicable financial reporting framework.

There are two options for referring to the financial reporting framework in the applicable

financial statements and accompanying auditor's report or review report:

- (a) refer only to IFRS in the notes to the financial statements and in the auditor's report or review report; or
- (b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report or review report.

Non-GAAP financial measures – An issuer that intends to disclose non-GAAP financial measures, including in its crowdfunding offering document, should refer to CSA guidance for a discussion on staff's expectations concerning the use of these measures.

Annual disclosure of use of proceeds

- 17.(1) Section 17 [*Annual disclosure of use of proceeds*] requires that an issuer's annual financial statements be accompanied by a notice that discloses in detail, how the gross proceeds raised by the issuer in a distribution under the crowdfunding prospectus exemption have been spent. The information in the notice is to be provided as at the date of the issuer's most recently completed financial year.

While specific disclosure is not prescribed for the notice, issuers should carefully consider whether the disclosure being provided contains sufficient detail for a security holder to understand how the proceeds have been used. For example, the level of detail expected in the notice of proceeds could include a breakdown of the amount of proceeds that were allocated to fees (including management or service provider fees), salaries or other compensation paid, asset purchases made or development costs.

If, at the date of the notice, there are funds raised by the issuer in a distribution under the crowdfunding prospectus exemption that have not been used, the notice should disclose that fact as well as the amount of the unused proceeds. The amount of the proceeds used together with the amount of unused proceeds, if any, should equal the gross proceeds raised by the issuer in the distribution under the crowdfunding prospectus exemption.

We expect the actual use of the proceeds as disclosed in the notice to be consistent with the issuer's intended use of proceeds as disclosed in the crowdfunding offering document.

If the proceeds of a crowdfunding distribution have been distributed to an entity that is related to the issuer (for example, an issuer in the same corporate structure), then the issuer should provide disclosure as to how the proceeds were used by that entity.

Notice of specified key events

18. In addition to annual financial statements and the notice of how the proceeds raised under the crowdfunding prospectus exemption have been used, non-reporting issuers that issue securities in reliance on the crowdfunding prospectus exemption in New Brunswick, Nova Scotia and Ontario must also make available a notice of specified key events to each holder of a security acquired under the crowdfunding prospectus exemption, within 10 days of the occurrence of the event. These events are considered to be significant changes in the business of the issuer that purchasers should be notified of. This requirement is in addition to any similar requirement under corporate law and also applies to non-reporting issuers with non-corporate structures, such as trusts and partnerships.

In making a determination as to whether an issuer's industry has changed, issuers may consider whether they would identify a different industry category on Form 45-106F1 *Report of Exempt Distribution* than the category previously identified.

A non-reporting issuer must continue to provide notice of the specified key events, if applicable, until the earliest of the following events: (i) the issuer becomes a reporting issuer; (ii) the issuer has completed a winding up or dissolution; (iii) the securities of the issuer are beneficially owned, directly or indirectly, by fewer than 51 security holders worldwide.

PART 3 REQUIREMENTS FOR FUNDING PORTALS

Division 1: Registration requirements, general

Division 1 [*Registration requirements, general*] sets out the registration requirements for both a restricted dealer funding portal and a registered dealer funding portal.

Restricted dealer funding portal

21. A restricted dealer funding portal and a registered individual of a restricted dealer funding portal must comply with the requirements set out in Part 3.

Although a restricted dealer funding portal is not required to comply with section 13.3 of NI 31-103 or collect client specific know your client information as contemplated by paragraph 13.2(2)(c) of NI 31-103, a restricted dealer funding portal is still required to establish the identity of, and to conduct due diligence on its clients under the general know-your-client obligation set out in section 13.2 of NI 31-103.

Registered dealer funding portal

22. A crowdfunding distribution must be made through a single funding portal. A registered dealer who currently distributes securities online under other prospectus exemptions, such as the accredited investor exemption in section 2.3 of NI 45-106 or the offering memorandum exemption in section 2.9 of NI 45-106, will already have in place the infrastructure required to facilitate distributions of securities under the crowdfunding prospectus exemption through an online platform. However, these registered dealers will be required to ensure they have the necessary policies and procedures in place to comply with Part 3, as applicable. For those registered dealers who do not currently distribute securities online and intend to use the crowdfunding prospectus exemption, they must establish an online funding portal to distribute the securities under the crowdfunding prospectus exemption in accordance with the Instrument.

A registered dealer that proposes to distribute securities under the Instrument must file a Form 33-109F5 *Change of Registration Information* that describes the change in its business operations.

Division 2: Registration requirements, funding portals

General

Although a funding portal enters into a contractual relationship with an eligible crowdfunding issuer, the funding portal also has a relationship with a purchaser investing through the funding portal. These purchasers are clients of the funding portal. A funding portal and its registered individuals must deal fairly,

honestly and in good faith with a purchaser. This is consistent with the obligation imposed on all registered dealers and advisers under securities legislation. As a registrant, we expect a funding portal to follow the letter of the law and also the spirit of the law. For example, a funding portal that requires a purchaser to sign an agreement that contains an inappropriate waiver of liability or that attempts to transfer its responsibilities to the purchaser, is engaging in conduct that is not consistent with the principle of dealing fairly, honestly and in good faith with a purchaser.

A funding portal must be aware of and act in compliance with the terms of the exemption being relied upon for the trade or distribution of the security. For example, the funding portal must confirm and validate that the purchaser is investing within the investment limits set out in the Instrument.

Restricted dealing activities

- 23.(1) Section 23 [*Restricted dealing activities*] provides that a funding portal and a registered individual of a funding portal must not allow an issuer access to the funding portal if the issuer is a “related issuer” of the funding portal. The definition of a “related issuer” is described in National Instrument 33-105 *Underwriting Conflicts* (NI 33-105) and generally refers to a situation where there is cross-ownership between an issuer and a registrant. Subsection 1.2(2) of NI 33-105 provides that an entity is a related issuer to another entity if one of them is an “influential security holder” of the other or if each of them is a related issuer of the same third party.

If a funding portal proposes to allow an issuer that is a connected issuer access to the funding portal, the funding portal should ensure that the issuer’s offering documents include the disclosure required by Appendix C to NI 33-105. The definition of a “connected issuer” is described in NI 33-105 and generally refers to a situation where an issuer may not be a related issuer of the registrant, but has some other relationship with the registrant that would cause a reasonable investor to question whether the registrant and the issuer are independent of each other for purposes of the distribution. Refer to NI 33-105 and the related guidance in Companion Policy 33-105CP for more information.

- 23.(2) A funding portal may accept securities of an issuer as payment of portal access fees or other similar fees, provided that the payment by the issuer does not result in the funding portal holding securities of the issuer that exceed the limit set out in subsection 23(2) [*Restricted dealing activities*]. However, an investment by a funding portal in an issuer that intends to distribute securities through the funding portal, including an investment in the form of securities accepted as payment for fees, may give rise to a conflict of interest. Accordingly, we expect the funding portal to comply with the conflicts of interest provisions in Division 2 of Part 13 of NI 31-103 and related provisions in 31-103CP.

Advertising and general solicitation

24. A funding portal cannot advertise the distribution or solicit purchasers, except as permitted in subsection 24(2) [*Advertising and general solicitation*]. Any solicitation or marketing activities, either in print or electronic form that targets specific individuals in connection with a distribution under the crowdfunding prospectus exemption would be a contravention of section 24 [*Advertising and general solicitation*].

A funding portal is not permitted to recommend or endorse a particular issuer or distribution, which includes accepting payment or other benefits from an issuer to highlight or showcase the issuer or its distribution. Such conduct would be considered to be inconsistent with the restriction in section 24 [*Advertising and general solicitation*]. However, a funding portal may advertise its

business operations. For example, a funding portal may advertise that it is in the business of distributing securities under the crowdfunding prospectus exemption.

Access to funding portal

25. Section 25 [*Access to funding portal*] requires a funding portal to obtain a Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information (Form 45-108F5)* from each director, executive officer and promoter of an issuer prior to allowing the issuer access to the funding portal for the purposes of posting a distribution.

Funding portals should ensure all questions in Form 45-108F5 have been answered and additional details provided, where necessary.

At a minimum, we expect the following checks to be conducted by a funding portal:

- (a) regarding issuers:
 - (i) the existence of the issuer and its business registration, including a review of the issuer's constating documents;
 - (ii) securities and disciplinary enforcement history checks;
 - (iii) bankruptcy check; and
 - (iv) court record check, where available; and
- (b) regarding directors, executive officers and promoters of the issuer:
 - (i) criminal record and securities and disciplinary enforcement history checks;
 - (ii) bankruptcy check; and
 - (iii) court record check, where available.

While we have outlined the minimum steps we expect a funding portal to take in conducting background checks on the issuer and criminal records and background checks on each director, executive officer and promoter of the issuer, a registered dealer funding portal must also take steps to ensure compliance with its regulatory obligations under securities legislation. For example, we would not consider the minimum checks and requirements outlined in this section by a registered dealer funding portal to be adequate compliance with its know-your-product obligation.

A funding portal may retain a third party to perform these checks. However, the funding portal is responsible and accountable for all functions that it outsources to a third party. A funding portal should have a written agreement that sets out the responsibilities of the parties to the arrangement. A funding portal should consider the guidance provided in Part 11 of 31-103CP on outsourcing.

Issuer access agreement

26. We expect the funding portal and the issuer to enter into a written agreement that sets out all material terms and conditions of the arrangement under which a funding portal will grant the issuer access to its online platform. Although section 26 [*Issuer access agreement*] prescribes certain minimum requirements that must be included in an issuer access agreement, we encourage the funding portal and the issuer to also set out other key terms and conditions that will govern the arrangement.

Obligation to review materials of eligible crowdfunding issuer

27.(2) If, after reviewing the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal determines the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is incorrect, incomplete or misleading, it must require the issuer to correct, complete or clarify the disclosure in the crowdfunding offering document and other permitted materials prior to posting on the funding portal's online platform. For example:

- (a) if an issuer's constating documents indicate that the "common shares" contain restrictions on voting or contain redemption rights that allow the issuer to redeem the shares in certain circumstances, or that insiders or promoters of the issuer hold another class of securities that have multiple votes, and the crowdfunding offering document does not contain this disclosure, the funding portal must not grant the issuer access to the funding portal for the purposes of distributing its securities until it is satisfied that the crowdfunding offering document accurately describes the securities being distributed, the capital structure of the issuer, including the percentage ownership of the outstanding securities of the issuer held by the insiders and promoters, and any rights not otherwise available to purchasers;
- (b) if an issuer is part of an issuer group, and the issuer's interest in the business or the assets of the business are owned through one or more subsidiaries, the funding portal should understand the features and risks of the capital structure of the issuer group and assess whether the issuer's disclosures adequately disclose these risks.

Nothing in the Instrument prevents a funding portal from establishing additional criteria that an issuer must satisfy or meet in order to distribute its securities through the funding portal. A funding portal should establish additional criteria or due diligence checks to grant or deny access by an issuer to its online platform for any reason, including any concern of the funding portal that:

- (a) the issuer may not be financially responsible in the conduct of its business; or
- (b) the issuer has not complied with, or is not complying with, securities legislation or the undertakings, terms and conditions agreed to by the issuer in connection with a distribution under the crowdfunding prospectus exemption or otherwise.

Denial of issuer access and termination

28.(1) Funding portals are expected to play a gatekeeper role in attempting to ensure that issuers comply with the requirements of the crowdfunding prospectus exemption and to maintain the integrity of the capital markets. We expect funding portals to have policies and procedures in place to carry out their gatekeeper function, including measures to reduce the risk of fraud in securities-based crowdfunding. These policies and procedures should include the steps a funding portal follows to review and assess the issuer, the distribution, the crowdfunding offering document and the materials described in subsection 12(1) [*Additional distribution materials*]. At a minimum, we expect a funding portal to:

- establish the identity of an issuer, such as obtaining and reviewing the issuer's articles of incorporation or other constating documents;
- determine the nature of the issuer's business; and

- review the responses provided in Form 45-108F5 and the results of the criminal record and background checks.

If, after reviewing the information provided to the funding portal under the Instrument and any other information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal identifies any discrepancies or causes for concern about an issuer, its directors, executive officers or promoters, the distribution, the crowdfunding offering document or the materials described in subsection 12(1) [*Additional distribution materials*], the funding portal must make all reasonable inquiries to resolve the discrepancies or concerns. This may include asking additional questions of the issuer and its management and ensuring the answers provided resolve the concern to the satisfaction of the funding portal or obtaining and reviewing additional documentation. We expect the funding portal to consider the discrepancy or concern in its determination as to whether or not to grant an issuer access to its online platform.

We expect a funding portal to deny access to an issuer if based on the information the funding portal has, it appears to the funding portal that the issuer has not satisfied the conditions in subsection 28(1) [*Denial of issuer access and termination*]. For example, if it appears to the funding portal that upon a good faith determination the business of the issuer may not be conducted with integrity, including where the funding portal believes the issuer or the distribution is part of a scheme to defraud investors, the funding portal must deny the issuer access. If certain executive officers of the issuer reside in a jurisdiction where background checks and securities and disciplinary enforcement history checks are not readily available to the funding portal, it may determine that it is unable to assess whether the business of the issuer will be conducted with integrity, and thus must deny the issuer access to its platform.

Monitoring purchaser communications

32. A funding portal that establishes an online communication channel, such as a blog or chat room, should have detailed written policies and procedures that outline the steps the funding portal will take to ensure compliance with section 32 [*Monitoring purchaser communications*]. For example, a funding portal may require issuers and purchasers to register to use the online communication channel and each will be assigned a user code or client identifier that enables the funding portal to track the communications of each participant.

If, for example, a purchaser makes an incorrect statement on the blog that the price per share is too high at \$50, when the crowdfunding offering document states the price per share is \$10, the funding portal would not be required to remove the statement. However, the issuer would be permitted to correct the price through a statement on the blog that the price per share is \$10. If, in another example, an issuer makes a statement on the blog that describes how its product works and that information was not disclosed in the crowdfunding offering document, then the funding portal must remove the statement as it is inconsistent with the crowdfunding offering document. However, in this example, an issuer could make a clarifying statement as to how its product works, if necessary, to address a misconception or misunderstanding expressed by a purchaser on the blog.

Online platform acknowledgement

33. Prior to a person or company entering a funding portal's online platform, the funding portal must take reasonable steps to confirm that the person or company understands the risks of investing in securities posted on the funding portal and is advised whether they will or will not receive

suitability advice depending on the type of dealer operating the funding portal. We expect that these acknowledgements will be completed electronically through the funding portal and that the funding portal's books and records will include evidence that the funding portal has satisfied this obligation.

Purchaser requirements prior to purchase

34. Prior to a purchaser entering into an agreement to purchase securities under the crowdfunding prospectus exemption, a funding portal must obtain from a purchaser:
- (a) a risk acknowledgment form in which the purchaser has positively answered all questions;
 - (b) except in Alberta and Ontario confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2 500; and
 - (c) in Alberta and Ontario a confirmation of investment limits form and validation of the information contained in the form regardless of the acquisition cost to the purchaser.

A funding portal must not permit a purchaser to acquire securities of the issuer if the purchaser has responded negatively to any of the questions in the risk acknowledgment form.

We anticipate that (a) the risk acknowledgment form, (b) the confirmation and validation of the purchaser's investor status, and (c) where applicable, the confirmation of investment limits form will be completed online through the funding portal facilitating the distribution.

A funding portal should take reasonable steps to confirm that each purchaser proposing to participate in a crowdfunding distribution through its online platform understands and complies with the applicable investment limits. A funding portal must have appropriate policies and procedures in place to confirm and verify the purchaser's investor status, the applicable investment limits and whether the purchaser is in compliance with the applicable investment limits. In Alberta and Ontario these procedures must include obtaining a Form 45-108F3 from the purchaser prior to accepting any funds from the purchaser. The funding portal should review the risk acknowledgment form and in Alberta and Ontario also review the confirmation of investment limits form to ensure they have been properly completed and executed. If a purchaser specifies that it is an accredited investor or a permitted client, the funding portal will have to obtain further information from the purchaser in order to determine whether the purchaser has the requisite income or assets to meet the terms of the accredited investor or permitted client definition.

Division 3: Additional requirements, restricted dealer funding portal

Prohibition on providing recommendations or advice

39. Section 39 [*Prohibition on providing recommendations or advice*] provides that a restricted dealer funding portal and a registered individual of the restricted dealer funding portal must not provide a recommendation or advice to a purchaser in connection with a distribution under the crowdfunding prospectus exemption or other trades in a security. This means a restricted dealer funding portal cannot tell a purchaser that the securities are a good investment, that the securities meet the purchaser's investment needs or objectives, or that the purchaser should, for whatever reason, buy the securities.

Some activities may be considered *bona fide* activities of a restricted dealer funding portal

provided that a reasonable person would not construe those activities to be the restricted dealer funding portal providing a recommendation or advice to a purchaser. These activities could include:

- (a) using objective criteria to limit the crowdfunding distributions on the funding portal if the objective criteria are disclosed on the funding portal and applied consistently to all distributions on the funding portal;
- (b) providing general information and educational materials to purchasers about crowdfunding distributions if the information is presented in a fair, balanced and reasonable manner;
- (c) providing search functions or other tools for purchasers to search, sort or categorize crowdfunding distributions available on the funding portal if the search functions are based on objective criteria;
- (d) distributing information on the funding portal about a particular issuer or offering to a purchaser based on selection criteria identified by a purchaser; and
- (e) providing communication channels or discussion boards to enable purchasers in a crowdfunding distribution to communicate with one another and with representatives of the issuer about a crowdfunding distribution displayed on the funding portal if a communication by a person can be traced back to its author and the funding portal complies with its obligations in section 32 [*Monitoring purchaser communication*].

Restriction on Lending – A restricted dealer funding portal must comply with section 13.12 of NI 31-103 which provides that a registrant must not lend money, extend credit or provide margin to a client. Further, paragraph 39(b) [*Prohibition on providing recommendations or advice*] provides that a restricted dealer funding portal must not recommend that a purchaser use borrowed money to finance any part of the purchase of securities of the issuer under the crowdfunding prospectus exemption. This activity creates a conflict of interest which cannot be properly managed.

To the extent that products sold to a purchaser are structured in a way that results in the restricted dealer funding portal becoming a lender to the purchaser, we will consider the restricted dealer funding portal not to be in compliance with the prohibition in section 13.12 of NI 31-103.

Permitted dealing activities

41. Section 41 [*Permitted dealing activities*] provides that a restricted dealer funding portal and a registered individual of the restricted dealer funding portal may only act as an intermediary in connection with a distribution of securities made in reliance on the crowdfunding prospectus exemption and, except in Ontario, a distribution of securities made in reliance on a start-up crowdfunding registration and prospectus exemptive relief order granted by a securities regulatory authority or regulator. In addition, in Alberta, a restricted dealer funding portal and a registered individual of the restricted dealer funding portal may act as an intermediary in connection with a distribution of securities under ASC Rule 45-517 *Prospectus Exemption for Start-up Businesses*. This means that a restricted dealer funding portal is not permitted to engage in a broader range of dealing or advising activities, such as
- (a) facilitating distributions of securities in reliance on other prospectus exemptions,
 - (b) facilitating resales of securities acquired by a purchaser to accredited investors or to other

purchasers who are eligible to purchase securities on a prospectus-exempt basis, or

- (c) providing underwriting or underwriting-related services to issuers except as otherwise permitted by the Instrument.

The limitation on dealing activities applies only to activities in connection with a distribution of securities under the crowdfunding prospectus exemption and, except in Ontario, a distribution of securities under a start-up crowdfunding exemptive relief order granted by a securities regulatory authority or regulator. In Alberta, it also applies a distribution of securities under ASC Rule 45-517 *Prospectus Exemption for Start-up Businesses*. A funding portal may engage in other types of crowdfunding activities that do not involve a distribution of securities, including facilitating crowdfunding activities based on a donation model, a reward model or a pre-purchase model. To the extent that a funding portal does engage in crowdfunding activities that do not involve a distribution of securities, it should have separate books and records for its non-securities related crowdfunding activities.

Chief compliance officer

42. A restricted dealer funding portal is required to have a UDP and a CCO. The UDP and the CCO can be the same person if they meet the requirements for both registration categories. We prefer funding portals to separate these functions, but we recognize that for a restricted dealer funding portal, it might not be practical.

Section 42 [*Chief compliance officer*] sets out the proficiency requirements for a CCO of a restricted dealer funding portal. The regulator is required to determine an individual's fitness for registration and may exercise discretion in so doing.

The regulator may grant an exemption from any of the education requirements in paragraphs 42(a) and (b) [*Chief compliance officer*] for the CCO of a restricted dealer funding portal if it is satisfied that the individual has qualifications or relevant experience that are equivalent to, or more relevant in the circumstances than, the prescribed requirements.

The experience requirement in paragraph 42(c) [*Chief compliance officer*] may include experience acquired:

- during employment as or with a registered dealer, a registered adviser or an investment fund manager;
- in related investment fields, such as investment banking, advisory services, venture capital or private equity;
- in legal, accounting or consulting practices; or
- in other professional fields that relate to capital raising business activities.

Proficiency

43. Section 43 [*Proficiency*] requires an individual of a restricted dealer funding portal to have the education, training and experience, among other things, to understand the structure, features and risks of the distribution. At a minimum, to comply with the proficiency requirements set out in section 43 [*Proficiency*], we expect a restricted dealer funding portal to review and assess the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the issuer's articles of incorporation and other constating documents. The restricted dealer funding portal must be able to evidence their review of the information provided

by the issuer. If the information provided by the issuer is not sufficient to enable the restricted dealer funding portal to understand the structure, features and risks of the distribution, the funding portal must make further inquiries with the issuer to satisfy the proficiency requirement.

Examples of the structure, features and risks of the distribution include:

- return on the investment;
- fee structure;
- time horizon;
- liquidity risk;
- conflict of interest risk; and
- issuer's financial position.

MISCELLANEOUS

Resale of securities distributed under the crowdfunding prospectus exemption

Securities acquired under the crowdfunding prospectus exemption are subject to resale restrictions. Securities of a reporting issuer acquired under the crowdfunding prospectus exemption are subject to a four-month hold period. Securities of a non-reporting issuer cannot be resold in a jurisdiction:

- (a) until the issuer becomes a reporting issuer and certain other conditions are met; or
- (b) unless the sale is made under another available prospectus exemption.

The crowdfunding prospectus exemption is not available for distributions by selling security holders. Refer to National Instrument 45-102 *Resale of Securities*.

ANNEX G

**Proposed Amendments to
Alberta Securities Commission Rule 45-517 Prospectus Exemption for Start-up Businesses**

- 1. Alberta Securities Commission Rule 45-517 Prospectus Exemption for Start-up Businesses is amended by this Instrument.**
- 2. Section 2 is amended by adding the following after the definition of “registered dealer”:**
- “restricted dealer funding portal” means a person or company that:
- (a) is registered in the category of restricted dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*,
 - (b) is authorized under the terms and conditions of its restricted dealer registration to distribute securities under this Rule,
 - (c) acts or proposes to act as an intermediary in a distribution of eligible securities through an online platform under this Rule,
 - (d) is not registered in any other registration category,
 - (e) is not an affiliate of another registered dealer, registered adviser, or registered investment fund manager,
 - (f) in connection with a distribution under this Rule, complies with section 12.1.
- 3. In the following provisions “registered” is deleted before “dealer”:**
- (a) *paragraph 3(1)(e); and*
 - (b) *paragraph 3(1)(f).*
- 4. Paragraph 3(1)(k) is replaced with the following:**
- (k) any person or company acting or proposing to act as an intermediary in connection with the start-up business distribution of securities through an online platform to an Alberta purchaser is a registered dealer or a restricted dealer funding portal..

5. *In the following provisions “registered” is deleted before “dealer”:*
 - (a) *section 11, in the provision and in the heading;*
 - (b) *section 12; and*
 - (c) *section 16.*
6. *The following section is added after section 12:*
 - 12.1** (1) A restricted dealer funding portal that participates in a distribution under section 3 must comply with subsections 21(b), 21(c) and 21(d) and Division 3: *Additional requirements, restricted dealer funding portal* of Multilateral Instrument 45-108 Crowdfunding as if it were conducting a distribution under that instrument.
 - (2) In applying subsection (1), references to “crowdfunding prospectus exemption” in Multilateral Instrument 45-108 Crowdfunding mean the exemption from the prospectus requirement in section 3 of this Rule..
7. This Instrument comes into force on •, 2016.

ANNEX H

**Proposed Changes to
Companion Policy 45-517 Prospectus Exemption for Start-up Businesses**

1. *Companion Policy 45-517 Prospectus Exemption for Start-up Businesses is changed by this Instrument.*
2. *Section 2 is replaced with the following:*

ASC Rule 45-517 provides an exemption from the prospectus requirement. It is designed to facilitate capital raising by start-up or early stage businesses while still providing appropriate investor protection. It does not provide an exemption from the requirement that a person or company who is a dealer must be registered. Accordingly, a person or company acting as a dealer in respect of a distribution of securities under ASC Rule 45-517, will need to comply with the registration requirement. A condition of the prospectus exemption is that a person or company that acts or proposes to act as an intermediary in a distribution of securities under this Rule through an online platform, must be registered as an exempt market dealer or investment dealer under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* or by being registered as a restricted dealer funding portal as defined in the Rule..

3. *Section 5 is replaced with the following:*

An issuer wishing to raise funds can use the prospectus exemption in ASC Rule 45-517 in three ways:

- to raise money through an online funding portal (provided that the portal is either a registered dealer or a restricted dealer funding portal);
- to raise money through a dealer (provided the dealer is in compliance with the registration requirement e.g., registered as an exempt market dealer or investment dealer) that will solicit investment and distribute securities through traditional distribution channels; or
- to raise money through the issuer's principal's own network of contacts (provided that they are not in the business of trading securities such that the dealer registration requirement is triggered).

4. These changes become effective on •, 2016.

ANNEX I**Proposed Amendments to
National Instrument 45-102 *Resale of Securities***

1. *National Instrument 45-102 Resale of Securities is amended by this Instrument.*
2. *Section 2 of Appendix D is amended by replacing the section with the following:*

In Alberta, Ontario, Québec, New Brunswick, and Nova Scotia, the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*] of Multilateral Instrument 45-108 *Crowdfunding*.

3. This Instrument comes into force on •, 2016.

ANNEX J

**Proposed Amendments to
National Instrument 13-101 System for Electronic Document Analysis
and Retrieval (SEDAR)**

1. *National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this instrument.*
2. *Appendix A – Mandated Electronic Filings, section II Other Issuers (Reporting/Non-reporting), under E.(5) Exempt Market Offerings and Disclosure is amended by replacing the section with the following:*
 5. Offering document, distribution materials, financial statements and notices required to be filed or delivered by an issuer under Multilateral Instrument 45-108 *Crowdfunding* Alta, Sask, Man, Que, NB, NS
3. This Instrument comes into force on ●.

FAIR

Canadian Foundation *for*
Advancement *of* Investor Rights
Fondation canadienne *pour* l'avancement
des droits *des* investisseurs

August 25, 2016

Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, AB, T2P 0R4
Attention:
Jessie Gill
Legal Counsel, Corporate Finance

Sent via Email: jessie.gill@asc

RE: FAIR Canada's Comments on ASC's Proposed Multilateral Instrument 45-106: Crowdfunding

In response to the Alberta Securities Commission's Proposed Multilateral Instrument 45-106: Crowdfunding, please see enclosed, FAIR Canada's previous crowdfunding submission on Draft Regulation 45-108.

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Neil Gross at 416-214-3408/neil.gross@faircanada.ca or Marian Passmore at 416-214-3441/marian.passmore.@faircanada.ca.

Sincerely,



Canadian Foundation for Advancement of Investor Rights



Canadian Foundation *for*
Advancement *of* Investor Rights
Fondation canadienne *pour* l'avancement
des droits *des* investisseurs

June 18, 2014

Autorité des marchés financiers
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission

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
Sent via e-mail to: consultation-en-cours@lautorite.qc.ca

RE: Draft Regulation 45-108 respecting Crowdfunding

FAIR Canada is pleased to offer comments on Multilateral CSA Notice of Publication and Request for Comment on Draft Regulation 45-108 respecting Crowdfunding (the “**Notice**”) dated March 20, 2014.

Crowdfunding is a method of funding a project or venture through small amounts of money raised from a potentially large number of people over the internet via an internet portal acting as intermediary.¹ There are numerous models of crowdfunding, including the donation model, the reward model, the pre-purchase model, the peer-to-peer lending model, and the securities-based model. Our comments in this letter focus on the securities-based model, as this is the crowdfunding model that will generally involve a distribution of securities.

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

1. **Executive Summary**

- 1.1. **FAIR Canada does not support the introduction of a Crowdfunding Exemption. We strongly oppose the proposed Start-Up Exemption.**
- 1.2. We believe both models are flawed and present significant potential for serious investor harm.

¹ Policy Statement to Regulation 45-108 Respecting Crowdfunding. Available online at: <http://www.lautorite.qc.ca/files/pdf/reglementation/valeurs-mobilieres/45-108/2014-03-20/2014mars20-45-108-ig-cons-en.pdf>.

- 1.3. We believe that the Crowdfunding Exemption presents serious risks to investors as outlined below. The Start-Up Exemption is even worse – permitting unregistered portals to operate in Canada with no aggregate investment limit for individuals is simply unacceptable.
- 1.4. FAIR Canada is concerned that Canadian securities regulators (and securities regulators around the world) will be unable to regulate crowdfunding. The internet does not abide by jurisdictional borders. The introduction of a crowdfunding exemption will send a message to Canadian investors that investing online in an unknown start-up company is a legitimate investment opportunity.
- 1.5. It is widely accepted that many (possibly most) investors will lose money by investing in crowdfunding. It is unclear whether the purported benefits of crowdfunding will outweigh the costs. The economic benefits of crowdfunding are unproven.
- 1.6. As a result, FAIR Canada believes that it is incumbent upon securities regulators who are intent on implementing such an exemption to do so in a way that affords the highest level of investor protection possible. This is the best chance of serving the interests of both investors and issuers.
- 1.7. FAIR Canada is concerned that investment limits will be of limited effect in reducing the risk of abuse and fraud. We also believe that for legitimate offerings, investment limits are necessary to reduce losses.
- 1.8. The underlying premise of crowdfunding is that SMEs can meet their capital-raising needs by sourcing a small amount of money from a large number of people. We recommend that the Participating Jurisdictions decrease the individual investor limits to \$500 or less per offering and \$5,000 in total under the crowdfunding exemption. The current proposed limits are not small amounts for most retail investors.
- 1.9. FAIR Canada is concerned that adequate mechanisms have not been set out that will ensure adherence to the investor investment limits or the offering limit. FAIR Canada recommends the use of a centralized database to verify aggregate investment amounts rather than reliance upon self-certification.
- 1.10. FAIR Canada notes that, while suitability is a low threshold (we believe a best interest duty is necessary), investors could benefit from some form of advice with respect to crowdfunding offers. This could provide more protection than arbitrary investment limits as proposed, by ensuring that any crowdfunding investments do not make up a disproportionate amount of an investor's portfolio. We recommend that regulators examine whether a suitability element should be added to the exemption in the interests of investor protection and in light of research which demonstrates demand for it.
- 1.11. In light of academic research, FAIR Canada calls into question the “wisdom of the crowd”, and suggests that crowdfunding investors may often fail to properly evaluate a crowdfunding offering, be subject to herding influences, and make ‘impulse-purchase’-like decisions.
- 1.12. FAIR Canada is concerned that many investors will not understand the liquidity constraints of crowdfunding investments and will be ‘squeezed out’ of any profits in the rare event that they happen to invest in a successful equity crowdfunding offering. We recommend that

the Participating Jurisdictions prescribe basic mandatory protections for crowdfunding investors, including tag-along and pre-emptive rights.

- 1.13. It is essential that the advertising and marketing be limited to the registered portal so that regulators have some ability to provide oversight and monitoring of the advertising through the portal. While we anticipate there may be significant compliance concerns relating to advertising and soliciting, we view this to be an essential investor protection element of the crowdfunding proposal. FAIR Canada is concerned about the implications of proposed advertising and general solicitation provisions and we make specific recommendations to address these provisions.
- 1.14. FAIR Canada has asked various regulators for their research in respect of risk acknowledgement forms and understands that, despite their widespread use, regulators have not conducted research on investor use, investor understanding, utility or design of risk warning documents. We recommend that regulators test the risk acknowledgement form with investors prior to implementing the proposed crowdfunding exemption to ensure that it serves the purpose for which it was intended.
- 1.15. Additionally, we recommend that all portals have minimum requirements to provide risk warnings to investors prior to the point of sale. We also recommend that portals be required to provide an interactive basic knowledge tutorial that investors must complete in order to view offerings.
- 1.16. FAIR Canada agrees that it is vitally important that an issuer may not (directly or indirectly) pay a commission, finder's fee, referral fee or similar payment to any person in connection with an offering under the exemption, other than to a portal.
- 1.17. FAIR Canada recommends that concurrent capital raising under other exemptions should be prohibited during a crowdfunding distribution period. We further recommend a cooling-off period between offerings made through different prospectus exemptions.
- 1.18. FAIR Canada is concerned that some of the language proposed for the crowdfunding offering document is unclear or may be misleading. We make specific recommendations below in section 16.
- 1.19. FAIR Canada recommends that the right of action for misrepresentation be available against issuers, management, directors and portals. We also recommend that the crowdfunding offering document incorporate by reference other marketing material and continuous disclosure (for reporting issuers). We also recommend that the limitation period be two years from the date on which the claim became discoverable.
- 1.20. FAIR Canada also suggests that issuers be required to track employment levels and innovation developments of issuers who use the crowdfunding exemption and report them to securities regulators.
- 1.21. FAIR Canada fully supports the restriction that a registered funding portal will not be permitted to obtain dual registration in another registration category.
- 1.22. FAIR Canada opposes the proposed rule that would allow the portal to accept securities from SMEs and start-ups as payment (even if this payment was limited to 10%). This

inevitably gives rise to conflicts of interest and, given the important obligations imposed on portals, we do not believe regulators should condone such conflicts.

- 1.23. FAIR Canada believes that self-regulatory organization (“SRO”) membership should be required for crowdfunding portals.
- 1.24. FAIR Canada supports the proposed requirements for crowdfunding portals to complete due diligence. It is essential that portals be required to conduct background checks on issuers and their directors, executive officers, control persons and promoters. It is also essential that due diligence be conducted on the issuer’s business.
- 1.25. FAIR Canada recommends that funding portals have obligations with respect to investor complaints, including participation in the Ombudsman for Banking Services and Investments. Portals should be required to have a formalized process for receiving complaints and tracking them.
- 1.26. FAIR Canada suggests that funding portals have an obligation to report potential fraud to police and securities regulatory authorities and notify investors on their portals as appropriate.
- 1.27. Additionally, we recommend that portals be required to be transparent about capital raised, success rates, instances of fraud, etc. We are concerned that the rare successful businesses will garner a disproportionate amount of public attention and believe that complete information regarding failure rates and the amount of investor losses must also be reported to the relevant regulators and made publicly available.
- 1.28. In FAIR Canada’s view, finite regulatory resources should be used to focus on initiatives that provide for strong investor protection as these would support true capital formation and fair and efficient markets. Meaningful investor protection initiatives, such as the implementation of a best interest standard and a ban on conflicted sales commissions, are essential protections that are missing from the current regulatory framework for both private and public equity investments.
- 1.29. FAIR Canada is surprised at how quickly the crowdfunding initiative has moved from the idea stage to proposed regulations. Despite a lack of evidence, Canada securities regulators have seen fit to steam forward with unproven rules that are widely acknowledged to cause investor losses. We are concerned that in their haste, securities regulators may have failed to consider how this grand experiment will reflect on the policymaking process a few years down the road.
- 1.30. FAIR Canada notes that crowdfunding has moved abruptly from an idea to concrete rules. We have found some of the comments, rationales, or explanations for certain provisions to be unclear or lacking. The consultation period has not allowed adequate time for a thorough discussion (including in-depth roundtables) to discuss the implications of specific provisions being proposed.
- 1.31. We have difficulty understanding why the thorough, methodical, research-based approach that has been applied in important investor-protection matters has been cast aside with respect to crowdfunding and other exempt market initiatives. If regulatory capacity for swift action exists, it ought to be deployed to address investor-protection concerns rather than capital-raising desires.

1.32. Given the experimental nature of equity crowdfunding regulation, if Canadian securities regulators proceed with the introduction of a crowdfunding exemption, we strongly urge that a sunset clause of two years be included.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Neil Gross at 416-214-3408 (neil.gross@faircanada.ca) or Lindsay Speed at 416-214-3442 (lindsay.speed@faircanada.ca).

Sincerely,



Canadian Foundation for Advancement of Investor Rights



September 9, 2016

To: Alberta Securities Commission
Superintendent of Securities, Nunavut

C/O: Jessie Gill
Legal Counsel, Corporate Finance
Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, AB, T2P 0R4
Fax : 514-864-6381
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Re: Response to Proposed Adoption of Multilateral Instrument 45-108 Crowdfunding Exemption in Alberta

Dear Sirs and Madams,

Please accept this letter as our response on behalf of the National Crowdfunding Association of Canada (“NCFA Canada”) with respect to the **Request for Comments on the Proposed Adoption of Multilateral Instrument 45-108 Crowdfunding Exemption in Alberta** (the “**Integrated Crowdfunding Exemption**”), as released on July 26, 2016.

We are pleased the Alberta Securities Commission is considering joining the other provinces who have already adopted the Integrated Crowdfunding Exemption. NCFA Canada and its members also thank the Alberta Securities Commission for the opportunity to participate in the consultation process.

NCFA Canada is a cross-Canada non-profit actively engaged with both social and investment crowdfunding stakeholders across the country. NCFA Canada provides education, research, leadership, support and networking opportunities to over 1300+ members and works closely with industry, government, academia, community, and eco-system partners and affiliates, to create a strong and vibrant crowdfunding industry in Canada.

We support innovation, small businesses and entrepreneurs seeking to make a difference, and believe that crowdfunding markets and the eco-systems around them can play a significant role in mobilizing start-up capital and resources to early stage projects and businesses in an efficient and cost effective manner.

More detailed information about our organization is attached as a schedule to this response letter.

Our Comments on Adoption of the Integrated Crowdfunding Exemption

General

We support the adoption of the Integrated Crowdfunding Exemption in Alberta. It is our opinion, however, that the Alberta Securities Commission should be adopting the Saskatchewan and Manitoba version of the Integrated Crowdfunding Exemption and not the Ontario version of the exemption.

The Integrated Crowdfunding Exemption came into effect January 25, 2016 in the provinces of Manitoba, Nova Scotia, New Brunswick, Ontario, and Quebec. It will come into effect in Saskatchewan on ministerial approval which has not yet been obtained. Alberta will be the seventh jurisdiction in Canada to adopt the Integrated Crowdfunding Exemption.

It is our opinion that the harmonization of the capital-raising exemptions in Canada should be a top priority of all Canadian securities regulators. Ideally, the Integrated Crowdfunding Exemption and the Start-Up Crowdfunding Exemption, as set-out in Multi-lateral CSA Notice 45-316, should be available to issuers in every province and territory in Canada. The requirements and application of both these exemptions should also be identical and not have nuanced differences as they do now.

Slow Start to Use of Canadian Crowdfunding Specific Exemptions

As of today's date, no portal has registered under the Integrated Crowdfunding Exemption. We are also unaware of any registered dealers who have amended their registration to include sales under the Integrated Crowdfunding Exemption through a portal. As a result, no issuers have conducted a financing using the Integrated Crowdfunding Exemption in Canada since it became effective in January 2016.

The Start-Up Crowdfunding Exemption, available in British Columbia, Manitoba, New Brunswick, Nova Scotia, Quebec and Saskatchewan, has also had a slow start in Canada but is starting to gain traction. There are now eight portals registered under the Start-Up Crowdfunding Exemption and one exempt market dealer who is registered to include sales under this exemption through their portal. Issuers have closed financing on a number of these portals in British Columbia and Quebec.

There are also eight funding portals run by exempt market dealers and one portal registered as a restricted dealer utilizing the accredited investor and offering memorandum exemption. These portals have been more active in closing financings than the portals utilizing the Start-Up Crowdfunding Exemption.

In the United States Title III Crowdfunding rules became effective May 16, 2016. [Fifteen portals have registered](#) under the exemption and [ninety-nine issuers](#) have launched crowdfunding campaigns under the exemption. As of July 18, 2016, [35 states have approved an intrastate crowdfunding exemption](#). Portals have registered across the United States under these various intrastate exemptions. [Texas](#) alone has over ten portals registered under its intrastate crowdfunding exemption and portal rules. Over one-hundred and sixty-six issuers have launched crowdfunding campaigns utilizing these various intrastate crowdfunding exemptions. The Title III Crowdfunding rules and the various intrastate crowdfunding rules are similar to the Integrated Crowdfunding Exemption but vary in ways that has made these rules more attractive to portal operators and issuers.

Although we are disappointed the Integrated Crowdfunding Exemption has not been utilized, we believe it is too early to determine whether the Integrated Crowdfunding Exemption is of no interest to private or public issuers who may rely on this exemption to issue securities.

Other jurisdictions such as the UK, Europe and the US also had a slow start to the use of their funding portals. The use of these portals however have doubled or tripled year after year over the past four years in these jurisdictions. We expect a similar evolution of the use of funding portals will occur in Canada as investors and issuers become aware of and educated about this form of raising capital and investing, and the rules are adjusted to fall more in line with those in other jurisdictions.

Suggestions for Improvements to the Integrated Crowdfunding Exemption

We provide the following suggestions and comments for the purpose of encouraging you and other regulators in the participating jurisdictions to discuss how the Integrated Crowdfunding Exemption can be revised to be more palatable to potential portal operators and private small and medium enterprises (SMEs). We certainly do not want to encourage the Alberta Securities Commission to adopt its own twists to the Integrated Crowdfunding Exemption at this time. The majority of the suggested changes below are for future consideration.

Too Many Subtle Variations in to the Integrated Crowdfunding Exemption

One of the perceived issues of the Integrated Crowdfunding Exemption concerns the variations of the exemption adopted in different participating jurisdictions. A securities exemption that is identical in every jurisdiction across Canada is the ideal that Canadian securities regulators should actively pursue as a goal any time a new rule is adopted. The feedback we have received is that issuers and their advisors believe the Integrated Crowdfunding Exemption has too many variations from jurisdiction to jurisdiction which makes the rule difficult to understand and use. The chart below sets-out the main differences.

Jurisdictional Differences in MI 45-108 Crowdfunding						
	Ontario	New Brunswick	Nova Scotia	Manitoba	Saskatchewan	Quebec
Investment Limits Non-accredited investors have a cap of \$2,500 per distribution. Accredited investors have a cap of \$25,000 per distribution.	Non-accredited investors capped at \$10,000 per year for all CF investments.	No aggregate cap for CF investments per year.				
	Accredited investors capped at \$50,000 per year for all CF investments, unless permitted					

Jurisdictional Differences in MI 45-108 Crowdfunding						
	Ontario	New Brunswick	Nova Scotia	Manitoba	Saskatchewan	Quebec
	client. No limits apply to permitted client.					
Document Requirements	Confirmation of investment limit Form 45-108F3 from investors required.	No investment limit form required.				
	No accredited investor confirmation or validation required, but portal required to obtain additional information to determine if investor meets accredited or permitted client definition.	Accredited investor confirmation and validation if investing over \$2,500.				
	Offering documents considered an offering memorandum with rights available under s. 130.1 of ON securities act.	N/A	Offering documents considered an offering memorandum with rights available under s. 138 of NS securities act.	N/A	N/A	Offering documents and material considered authorized in lieu of prospectus with rights of action in s. 217 to 221 of QU securities act.
	No direction regarding language.					Documents must be in French only or in French and English.
Ongoing Disclosure Obligations	Notice of specified key events if a non-reporting issuer.			No key event notice.		
Portal	A restricted dealer funding portal must not be an affiliate of another registered dealer, registered adviser, or	No restriction on affiliation. A restricted dealer funding portal that is affiliated with another registered firm must establish internal controls and appropriate policies and procedures to manage the risks associated with operating an affiliated restricted dealer funding portal.				

Jurisdictional Differences in MI 45-108 Crowdfunding						
	Ontario	New Brunswick	Nova Scotia	Manitoba	Saskatchewan	Quebec
	registered investment fund manager.					
	Substitution of NI 31-103 requirements for similar (but not identical) Ontario Securities Act registration requirements.	No local rule substitutions.				
	Issuer access agreement must include confirmation funding portal is agent of issuer for purposes of a distribution under the CF exemption.	No confirmation of agent requirement.				
	Restricted dealer can only act for a distribution under CF Exemption.	Restricted dealer portal may act for a distribution under CF Exemption and Start-Up CF Exemption.				

The proposed version of the Integrated Crowdfunding Exemption to be adopted in Alberta mirrors the Ontario version other than: (1) there is no requirement for a notice of specified key events if a private issuer; (2) the offering documents are considered an offering memorandum with rights available under the Alberta Securities Act; and (3) restricted dealers may also sell securities under the *Alberta Securities Commission Rule 45-517 Prospectus Exemption for Start-up Businesses* (the “**Start-up Business Exemption**”). If adopted in Alberta as proposed, Canada will have yet another version of the Integrated Crowdfunding Exemption.

There should be no Caps on Accredited Investors under the Rule

There appears to be no logical reason to impose distribution caps or aggregate yearly investment caps on accredited investors under this exemption.

Under the existing accredited investor exemption there are no caps on the amount someone who is qualified as an accredited investor can invest in a distribution, or yearly limit as to how much they may invest in public or private issuers. The accredited investor exemption is based on the premise that someone who is an accredited

investor has the financial sophistication and ability to sustain the risk of loss of investment or the ability to protect themselves which render the protections of the securities act's registration process unnecessary. It is unclear why accredited investors now need protection from investing in securities offered under the Integrated Crowdfunding Exemption or should be discouraged from participating in these offerings.

Issuers are forced to run two concurrent offerings (one utilizing the Integrated Crowdfunding Exemption and another utilizing the accredited investor exemption) if an accredited investor wishes to invest more than \$25,000 or the issuer or investor is located in Alberta and Ontario and the investor has maxed out his yearly investment cap of \$50,000. Not only does this add complexity, it removes valuable information about who is interested in investing in an issuer and the benefits accredited investors bring to the due diligence process of a crowdfunding investment.

Non-accredited investors benefit when accredited investors (angels, venture capitalists, and market professionals) participate in a crowdfunding offering as they often have the means and ability to evaluate the merits of the business and offering. If accredited investors are restricted or absent from these offerings, non-accredited investors cannot take advantage of the knowledge base accredited investors can bring to the shared evaluation process. Limiting and discouraging the participation of accredited investors removes a potentially important investor protection mechanism in equity crowdfunding.

We strongly encourage Alberta to not adopt the Ontario version of the Integrated Crowdfunding Exemption which imposes an aggregate yearly investment cap on accredited investors and instead to join the other participating jurisdictions in adopting a version of the exemption with no yearly investment caps. We also encourage Alberta and the other participating jurisdictions to eliminate the per distribution cap currently in place for accredited investors.

Accredited Investor Confirmation and Validation

Except in Ontario (and Alberta), issuers and portals are required to confirm and validate if an investor is an accredited investor if the acquisition cost is greater than \$2,500. In all jurisdictions, if an investor indicates they are an accredited investor or a permitted client, the portal is required to obtain further information from the purchaser in order to determine whether the purchaser has the requisite income or assets to meet the terms of the accredited investor or permitted client definition.

Portals and issuers struggle with what is required of them to confirm and validate that someone is an accredited investor. Ideally, they would like to be able to rely on self-declarations by investors or use a check-the-box approach, however, regulatory actions across Canada and guidelines issued by various regulators have indicated these actions are not sufficient to determine if someone is an accredited investor.

It appears Ontario's (and Alberta's) *Form 45-108F3 - Confirmation of Investment Limits* not only serves to provide information about investment limits but also confirms for issuers (but not portals) an investor is an accredited investor. If this is true we encourage all participating jurisdictions to adopt an accredited investor confirmation and validation form that issuers and portals can rely on to determine if someone is an accredited

investor. Alternatively, we ask the regulators to provide further guidance given that it is not clear how confirmation and validation of accredited investor status can be streamlined to meet the requirements of the regulators and at the same time not put-off potential investors or be a costly exercise.

Allow Advertising

The Integrated Crowdfunding Exemption should be amended to allow advertising and general solicitation. Issuers and registered dealers have been allowed to use advertising and general solicitation when utilizing the accredited investor exemption and the offering memorandum exemption for over ten years. During this period there has been very little abuse attributed to advertising and general solicitation. Abuse that has been identified in this area has gone hand in hand with fraud, material misrepresentations, and a flagrant disregard for securities laws all together.

Allowing advertising and general solicitation increases investor protection. In donation, pre-sale and perk crowdfunding campaigns advertising and general solicitation draws in hundreds of people who review and provide their opinion and knowledge about the issuer, founders, business, product and perk. Allowing advertising and general solicitation creates transparency, and unlike online bulletin boards and chat rooms, potential investors and commenters cannot hide their identity behind multiple aliases. Fraud is rare and quickly uncovered in this type of environment. You want equity crowdfunding campaigns to be seen by as many people as possible.

Not allowing advertising, and requiring or allowing portals to put information about an offering behind a wall, creates a private room environment where issuers and portal operators have a greater ability to hide what is being said to potential investors and what communication regulators can see as well. It is equivalent to creating a “private pitch dinner” or “timeshare presentation” environment which can breed high-pressure sales tactics, falsified information, and empty promises. Regulators cannot police everything and the crowd will alert you to issuers and founders who are not who they say they are or who are not abiding by the rules which would otherwise be missed if only a few people are aware of an issuer’s equity crowdfunding campaign.

Advertising and general solicitation is allowed under the equity crowdfunding rules in the United Kingdom. We believe this is one of the reason equity crowdfunding has been so successful for issuers raising capital in the United Kingdom. In the United States, twenty-one states have explicitly allowed for advertising and general solicitation in their intrastate crowdfunding exemption rules. The remaining states who have adopted an intrastate crowdfunding exemption are silent on the issue, and no state bans advertising and general solicitation in its intrastate crowdfunding exemption rules.

Eliminate or Provide a Reasonable Sunset Clause to Ongoing Disclosure Requirements

Under the Integrated Crowdfunding Exemption non-reporting issuers must provide investors and file with regulators annual financial statements and an annual statement of use of proceeds, and in Ontario, New Brunswick and Nova Scotia, notices of significant events. Financial statements are required to be:

- audited or reviewed by a public accounting firm if the cumulative amount an issuer has raised under any securities exemption since its formation is \$250,000 or more but is less than \$750,000, or
- audited if the cumulative amount an issuer has raised under any securities exemptions since its formation is \$750,000 or more.

Using a cumulative threshold pretty much guarantees most non-reporting issuers considering using the exemption will be required to file audited financial statements at some point in time. This is a very expensive proposition to non-reporting issuers as these statements must be prepared in accordance to *National Instrument 51-102 Continuous Disclosure Obligations*, *National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards* and International Financial Reporting Standards (IFRS), versus Canadian GAAP for Private Enterprises.

These ongoing disclosure requirements continue until a non-reporting issuer becomes a reporting issuer, winds-up or dissolves its business, or has fewer than 51 security holders worldwide.

If an issuer raises \$150,000 under the Integrated Crowdfunding Exemption and all investors put in \$2,500, the maximum allowed by non-accredited investors, that issuer will have 60 new security holders. If they had previously raised \$600,000 through friends and family or accredited investors they would be required to provide audited financial statements indefinitely. The cost of meeting this ongoing disclosure requirement far outweighs the advantage or interest any non-reporting issuer may have in using this exemption.

An indefinite ongoing disclosure requirement only makes sense if a non-reporting issuer is continually raising capital, planning to go public in the near term, or has a definite life span like a limited partnership.

Ongoing disclosure requirements do not apply when an issuer raises capital under the private issuer exemption, the accredited investor exemption, the Start-up Crowdfunding Exemption or the Start-up Business Exemption. It should not exist here either unless it has a reasonable sunset clause such as one year after a non-reporting issuer raises capital under the Integrated Crowdfunding Exemption.

Increase Amount that May be Raised under the Integrated Crowdfunding Exemption

The maximum an issuer group can raise under the Integrated Crowdfunding Exemption in a twelve month period is \$1.5 million.

We believe this limit should be \$5 million or higher in order to make this exemption attractive to issuers. It is our understanding that this limit was previously selected based on the U.S. \$1,000,000 limit set out under Title III of the *JOBS Act* and the proposed, now effective, U.S. Securities and Exchange Commission crowdfunding rules. Several House and Senate members in the United States have proposed the cap be raised for offerings under Title III Crowdfunding under various bills, none of which have yet been adopted. Under the intrastate crowdfunding exemptions offering caps vary from \$100,000 to \$5 million per year. Other than in Oregon, there has been no activity under the intrastate crowdfunding exemptions in states where the offering cap is less than US \$1 million.

This yearly cap should be considered in context of the markets you are trying to encourage and support in Canada, and the cost and burden imposed on issuers who wish to use the Integrated Crowdfunding Exemption.

Two years ago data from equity crowdfunding portals in Europe and accredited investor equity crowdfunding portals in the U.S. seemed to indicate the mean offering size of existing campaigns were under \$1.5 million. Data from 2015 and 2016, however, indicates these portals are now regularly helping issuers raise over \$1.5 million for early stage companies. A higher limit would support a wider variety of issuers and make the cost of undertaking such an offering worthwhile.

We also believe an issuer's raise should not be aggregated with amounts raised by an affiliate of the issuer or an issuer engaged in a common enterprise with the issuer or with an affiliate of the issuer. A parent or subsidiary company may be involved in a completely different line of business or be the research arm of the organization. New developments and opportunities may be stifled by treating these entities as one for the purpose of this exemption.

Increase Threshold for the Requirement for Review and Audited Financial Statements

Issuers are required to provide financial statements as part of their offering material which have:

- been approved by management if the cumulative amount an issuer has raised under any securities exemption since its formation is under \$250,000;
- audited or reviewed by a public accounting firm if the cumulative amount an issuer has raised under any securities exemption since its formation is \$250,000 or more but is less than \$750,000, or
- audited if the cumulative amount an issuer has raised under any securities exemptions since its formation is \$750,000 or more.

As discussed previously, it is extremely expensive and burdensome for non-reporting issuers to obtain reviewed and audited financial statements. It is not uncommon for review engagements to cost \$20,000 or more. Audited financial statements can cost a lot more for non-reporting issuers who have active businesses.

Regulation A in the United States is similar to our offering memorandum exemption in Canada. Under Tier 1, Canadian and United States resident issuers can raise up to US \$20 million dollars under the exemption with no audited financial statements required.

The majority of the intrastate crowdfunding exemptions do not require reviewed or audited financial statements until an issuer raises \$1 million or more. Title III Crowdfunding in the United States does not require reviewed or audited financial statements by first time users of the exemption unless they are otherwise available. Canadian non-reporting issuers are placed at a serious disadvantage to the issuers located elsewhere in the world by requiring they have reviewed or audited financial statement under the current threshold amounts.

The Integrated Crowdfunding Exemption is the only exemption we are aware of that uses a cumulative amount raised over the life of the issuer to determine if reviewed or audited financial statements are required. As a result, almost all high growth companies that have been around longer than three years will be required to provide audited financial statements if using the Integrated Crowdfunding Exemption.

Non-reporting issuers should not be required to provide audited financial statements unless they are planning to raise over \$1.5 million. A per distribution approach should be applied to this requirement and not a cumulative approach.

Eliminate Requirement for Personal Information Forms and Criminal Record and Background Checks

Requiring personal information forms from management of issuers looking to raise capital is intrusive and not required when using other capital raising exemptions in Canada. Requiring portals to conduct criminal record and background checks is also not required when raising capital using other exemptions in Canada. These checks are also incredibly time consuming and expensive for a portal to undertake. These requirements increase the cost of raising capital under the Integrated Crowdfunding Exemption and make its use unattractive to both issuers and potential portal operators. These requirements should be eliminated.

Require Portals to Keep all Campaign Materials Online and Open to the Public

Section 31 of the Integrated Crowdfunding Exemption requires portals to remove the distribution materials of an issuer's crowdfunding campaign at the end of the distribution period. We believe this is a mistake.

Regulators should require issuers and portal operators to keep all campaign materials on the portal and available to the public to access post campaign. This information provides historical transparency which will allow the public, regulators, professionals and other third parties to track issuers and their founders' performance and their capital raising history. This type of transparency will encourage issuer and founder accountability for their statements and financial stewardship of investors' funds. It will also encourage portals to curate quality companies versus being solely fee driven in terms of who they allow to raise capital through their portal. Erasing or allowing portals to hide this information behind a paywall eliminates a valuable tool for investor protection. This also would bring the requirements and practice of Canadian portals in line with portals operating in the Asia, Europe, New Zealand, the United Kingdom and the United States.

Simplify Registration Process of Restricted Dealers

Feedback we have received from groups who have investigated whether they should pursue becoming a restricted dealer under the Integrated Crowdfunding Exemption is that the process is confusing and complicated. These rules should be simplified and all of the rules should be found in one place and not refer to substitution of *National Instrument 31-103* requirements for similar (but not identical) Ontario *Securities Act* registration requirements. They are also concerned about their liability exposure and ability to streamline the process sufficiently to meet the regulatory requirements and make a profit.

It is our opinion that the requirements under the Start-up Crowdfunding Exemption struck the appropriate balance of what should be required of groups wanting to become a portal operator and operate a portal. As a result, eight portals are now operating under the Start-up crowdfunding exemption. No portals are currently operating as a restricted dealer under the Integrated Crowdfunding Exemption.

Ontario (and Alberta) should eliminate the requirement that a restricted dealer funding portal not be an affiliate of another registered dealer, registered adviser, or registered investment fund manager. We believe this may encourage some existing dealers to consider running a portal under the Integrated Crowdfunding Exemption.

Marketplace Lenders

The Integrated Crowdfunding Exemption and restricted dealer registration as currently adopted do not work for the majority of marketplace lending platforms successfully operating outside of Canada. The rules do not take into consideration multi-party participation of public, private and government blended funding models which have developed in the United Kingdom and Europe. They also do not allow for a financial institution to either operate a marketplace lending portal or heavily participate in each funding event (a number of successful portals have the crowd raise 25% and the portal/institution loan 75%). Requiring marketplace lending portals to do a suitability analysis of each lender (investor) when their loan (investment) is capped and a participating institution or party is involved ignores the fact these lenders may have extensive experience with small business loans. The rules also do not allow for the implementation of membership marketplace lending models.

Regulators should revisit the Integrated Crowdfunding Exemption and make changes or accommodations that allow for the exemption to be relied on by marketplace lenders. We also encourage you to implement a regulatory sandbox project which provides a class-wide licensing waiver for new businesses to run early-stage tests and trials in the fintech area. The dynamics of this sandbox should encourage dialogue versus suspicion between the private market innovators and regulators. Any action Canadian Securities Administrators implement in this area should be undertaken in conjunction and in association with other interested regulatory bodies.

The regulatory sandbox approach has had good success in the [United Kingdom](#) and was formalized earlier this year. The [Australian Securities & Investment Commission](#) just recently issued an update on its Innovation Hub for fintech companies. In the United States, the Consumer Financial Protection Bureau formed Project Catalyst to engage with companies developing innovative consumer financial products and serves and provides as an established process for obtaining a [no-action letter](#) (equivalent to an exempt application in Canada) concerning innovative financial products.

Marketplace lending platforms are having a significant impact on SMEs in the United Kingdom, as set out in the Cambridge University 2015 [UK Alternative Finance Industry Report](#), and in the United States, as illustrated in report prepared by the [Milken Institute Center for Financial Markets](#) which profiled 70 of the [United States based online non-bank fintech businesses](#). Canada is at risk to be left behind in the fintech revolution if our regulatory environment thwarts innovation and change.

Closing Comments

We encourage the Alberta Securities Commission to adopt the Integrated Crowdfunding Exemption (preferably in the form adopted by Saskatchewan and Manitoba). We also encourage Alberta to undertake community outreach to educate Albertans about the exemption and to support its use by private and public issuers. In other jurisdictions, this type of participation has worked to foster portals and issuers using those jurisdiction's equity crowdfunding exemption.

Please feel free to contact us at any time to discuss further.

Sincerely,

Craig Asano
Founder and Executive Director
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Enclosure

The National Crowdfunding Association



Education, Advocacy, Networking, Growth

Fostering a dynamic, vibrant and inclusive Crowdfunding industry in Canada

Proposed Multilateral Instrument 45-108 Crowdfunding

NCFA Canada Board
September 9, 2016

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National Crowdfunding Association of Canada
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About NCFA Canada

- The National Crowdfunding Association of Canada (**NCFA Canada**) is a cross-Canada non-profit organization with a mandate to be inclusive in providing **education, awareness** and **advocacy** in the rapidly evolving crowdfunding industry.
- NCFA Canada is a community-based and membership-driven non-profit entity that was founded at a grass roots level to fill a national need in the marketplace.
- Members and prospective members are industry stakeholders (e.g., portals, experts, service providers and enablers), small businesses using crowdfunding to fund their initiatives and investors seeking to learn more and get connected with a relevant and national membership peer network.

Overview

The Importance of SMEs to the Canadian Economy

- Small to mid-sized enterprise businesses (**SMEs**) are the lifeblood of the Canadian economy. From the corner laundry mat to the emerging high tech software company there were a total of 1,105,972 SMEs in 2012 according to Industry Canada. By definition, SMEs include micro-enterprises (1-4 employees), small businesses (5-100) and medium sized businesses (101-500).
- In 2012, SMEs hired 89.9% of the entire workforce. Stated differently, almost nine in every ten persons is directly affected and reliant on the SMEs for their livelihood. In 2011, SMEs represented 27% of Canada's total GDP and also accounted for \$150 billion in exports, or 40.1% of Canada's total export value.¹
- SMEs play a significant role as a feeder system. Successful smaller companies may grow, acquire other businesses or assets, and possibly become larger public companies.

SME's Funding Challenge

- A funding gap exists for Canadian start-ups and SMEs to raise small amounts of capital (e.g., estimated by various industry professionals to be \$1 to \$5 million) that is not currently being satisfied by friends and family networks, angels, incubator/accelerator programs and venture capital (**VC**) groups.
- Traditional institutions and alternative lenders have strict lending requirements that most start-ups do not qualify for. Many small businesses cannot get a line of credit approved by their bank (or revive credit lines) due to poor sales or insufficient collateral to support their loan requests.
- Many small businesses are asked to front money to initiate a funding process or are advised to pay expensive financial and legal planners to develop detailed business plans and prospectus documents that exceed the budget and viability of many start-ups and SMEs.
- Incubators and accelerators are excellent options, however there are only a limited number of placements available (e.g., most programs are operating at maximum capacity) and they generally focus on a niche industry. VC has been on the decline. In 2000, \$5.9 billion was invested in 1,007 Canadian start-ups, according to Thomson Reuters, compared to just \$1.1 billion in 2010 that was raised by 357 Canadian firms representing an alarming decreasing trend in a ten year period. In 2014, Canadian start-ups received \$2.36 B in funding, nearly double the amount invested five years ago but this was primarily due to four exceptionally large financing.² VCs are incentivized to participate in larger funding transactions and the average deal sizes are mismatched with the needs of SME issuers.³

What's at Stake?

¹ Key Small Business Statistics - August 2013 Edition, Innovation, Science and Economic Development Canada, Industry Canada
http://www.ic.gc.ca/eic/site/061.nsf/eng/h_02800.html

² <http://www.reuters.com/article/canada-investment-idUSL1N0VK2MW20150210>

³ <http://www.theglobeandmail.com/report-on-business/streetwise/canadian-venture-capital-stuck-in-deep-rut/article616668/>

- Fundamentally there's a strong need to ensure SMEs have the proper access to capital to innovate and develop competitive products/services to bring to Canadian and global markets.
- Without a clear funding roadmap for small businesses or an efficient and legally viable capital formation process many valid business ideas will not get funded in Canada.
- Crowdfunding has gained a lot of momentum in North America and Europe. Equity crowdfunding is currently legally permitted in many countries, such as Australia, United Kingdom (“UK”), Netherlands and the United States (“US”). will soon be added to the growing list with the passing of the [Jumpstart Our Business Start-ups Act \(JOBS Act\)](#)⁴ last April 2012.
- Canada needs to review its securities laws to ensure they are current and suitable to meet the needs of SME issuers and their ability to connect with prospective investors (funders) and successfully raise early stage capital from online market places.
- Canada risks losing its Canadian funded ideas and best entrepreneurs to countries with more supportive funding environments and access to capital (e.g., US) that are keen to commercialize on Canadian start-up ventures.
- Canada will continue to slide down global innovation rankings and the economy will suffer as a result negatively impacting job creation and Canada's strategic social-economic advantages.⁵

NCFA Canada 2015 Conferences and Outreach

In 2015, NCFA Canada held five events across Canada (Toronto: March 3, 2015, July 28, 2015, and October 15, 2015, Vancouver: September 29, 2015, and Calgary: December 3, 2015) to educate and receive feedback from various constituent groups interested in start-up capital in their communities. All of these events were held in association with strong government, academic, industry and community supporters such as the Dec 3rd event held in Calgary that involved participants from Government of Alberta (Innovation and Access to Capital; and Alberta Securities Commission), ATB Financial, VA Angels, LendingArch, Business Link and SeedUps Canada. NCFA Canada and all in attendance appreciated the participation by local securities regulators in each jurisdiction at these events.

In addition to holding conferences, NCFA Canada has fielded questions from aspiring crowdfunding portal operators, issuers, and investors by telephone and email. We have published an equity crowdfunding FAQ on our website and provided articles summarizing the key elements of the proposed crowdfunding exemptions. We are also in the process of finalizing an e-book of a larger array of questions and answers on equity crowdfunding and investing in general, and an industry led whitepaper on the topic of Online Lending in Canada.

National Crowdfunding Surveys in Canada

In 2013, NCFA Canada collaborated with the Exempt Market Dealers Association of Canada to develop and host the National Canadian Crowdfunding Survey in Canada ([link to survey](#)) (“2013 Survey”). The purpose of the survey was to obtain a better understanding of the various stakeholder opinions on legalizing equity Crowdfunding in Canada and to provide Canadian securities regulators with feedback on many of the issues Canadian securities regulators were seeking input into on online capital raising options for SMEs.

NCFA Canada has joined Cambridge Centre for Alternative Finance at Cambridge Judge Business School and the Polsky Center for Entrepreneurship and Innovation at Chicago Booth School of Business in launching the 2015 Americas Alternative Finance Benchmarking Survey.

⁴ http://en.wikipedia.org/wiki/Jumpstart_Our_Business_Startups_Act

⁵ <http://www.ncfacanada.org/poor-innovation-ranking-dims-the-lights-on-canadas-competitiveness-and-prosperity/>



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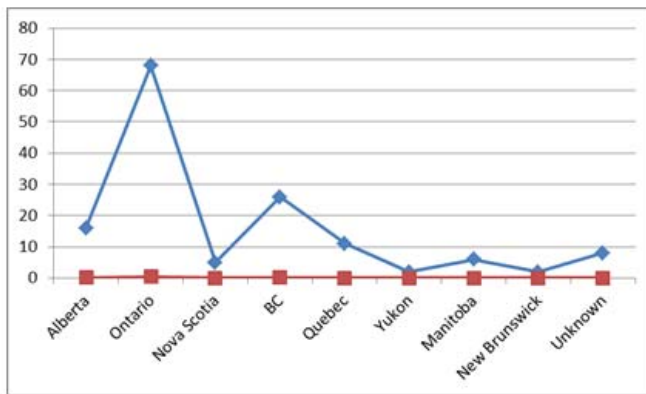
Additionally, NCFA Canada is in the process of completing a 2015 Canadian Crowdfunding Platform Survey that attempts to measure the size and make-up of the Canadian market. The survey is expected to be completed in time for release in the first quarter of 2016. There is also discussion about administrating a follow-up survey to the original 2013 Survey to gage how opinions of various stakeholders has changed or evolved since 2013.

We believe the results of our 2013 Survey, although focused on an equity crowdfunding specific exemption, is equally relevant to the Participating Regulators as they consider the Start-Up Business Exemption.

Overview of 2013 Survey Responders

We received a total of 144 survey responders from NCFA Canada’s crowd:

- 100% of responders represented start-up and/or SME issuer views
- Almost 75% were a planned portal or service provider
- 70% / 25% identified themselves as non-accredited / accredited investors
- 12 self-identified as registrants including exempt market dealers, investment dealers, or portfolio managers



Alberta	16	11.1%
Ontario	68	47.2%
Nova Scotia	5	3.5%
BC	26	18.1%
Quebec	11	7.6%
Yukon	2	1.4%
Manitoba	6	4.2%
New Brunswick	2	1.4%
Unknown	8	5.6%
total	144	100.0%

Preliminary Survey Results

In addition to the raw data survey responses below, NCFA Canada Advisory Board member, Douglas Cumming, Professor and Ontario Research Chair, York University – Schulich School of Business, and his research team, conducted further analysis of the data: [Demand Driven Securities Regulation: Evidence from Crowdfunding](#) (Apr 2013); and [Crowdfunding and Prosperity In Ontario](#) (Mar 2014).

Should we Adopt a Crowdfunding Exemption?

- 95.7% of responders voted that Canada should adopt a crowdfunding exemption under applicable securities laws.
- 74.8% of survey participants were moderately to extremely familiar with crowdfunding.
- Overall, approximately 90% of survey responders agreed or strongly agreed that there would be significant benefits for both SME issuers and investors by adopting a crowdfunding exemption.

Investor Motivations to Make an Investment through Crowdfunding (Ranked in Order):

- | | |
|------------------------------------|-----------------------------------|
| 1. Innovation and entrepreneurship | 4. Direct access to entrepreneurs |
| 2. Financial incentives | 5. Diversification |
| 3. Non-financial incentives | 6. Networking |

Should Canada Move Ahead or Follow the SEC and FINRA?

- 60.6% of survey responders agreed or strongly agreed that Canada should move ahead and finalize crowdfunding rules and regulations (23.1% were undecided).

Pilot Project

- 73.7% of survey responders believed that Canada should approve a crowdfunding exemption on a trial or limited basis initially.
- 43.3% or the majority of survey responders answered that the trial should be based on a limited period of time.
- A very low 5.6% clearly indicated that a crowdfunding pilot project should not be restricted to a particular industry or sector.

Investor Limits and Restrictions

- 72.9% of the responders voted that the investment cap should be \$10,000-\$15,000 or more per investor in a 12-month period.
- 64.2% of responders indicated that there should not be any further caps on the funds that can be invested with a single crowdfunding issuer within a 12 month period.

Issuer Limits

- 45% of responders voted that the aggregate amount of capital that an issuer should be able to raise in a 12 month period is up to \$2,000,000.
- 45% of responders indicated that there should not be a limit.

Secondary Market

- 64.4% of survey responders believed that securities should be free-trading after a period of time.
- 83.7% of survey respondents indicated that crowdfunding securities should be eligible for second market trading after 12-24 months of the original purchase.
- Note, by way of comparison and under the USJOBS Act there is a moratorium on transferring shares within one year from the date of issuance, unless the transfer is to an accredited investor or back to the company.

Prospective Crowdfunding Exemption

NCFA Canada advocates that a crowdfunding exemption in Canada will increase the awareness of Canadian start-ups, support innovation and entrepreneurship, create jobs and contribute to the total GDP and export base of the economy.

Proposed Implementation Principles

To cultivate the benefits of investment crowdfunding frameworks, regulators must strike the right balance between protecting investors while ensuring efficient capital formation for SMEs. To assist with this task, NCFA Canada has developed eight (8) high-level implementation principles to be used as guidelines when considering the costs and benefits of a prospective crowdfunding exemption in Canada. (These considerations apply equally to the Start-Up Business Exemption.)

Principle	Concept	Description
1. Harmonious	Collaborative development	The collaborative development of a harmonized set of crowdfunding regulations to benefit Canada as a whole.
2. Inclusive	All sectors and industries	To be as inclusive as possible to a broad-based range of sectors and industries to encourage balanced growth in communities across the country.
3. Transparent	Disclosure rules and crowd intelligence	Support transparent disclosure and crowd intelligence as a means to help government and industry prevent, identify and report potential fraud and abuse to authorities within a timely manner.
4. Adaptive	Innovative market adaptation	To ensure crowdfunding regulations support market evolution enabling innovation to flourish.
5. Robust	Efficient capital formation	A regulatory framework that gives SME issuers and investors (funders) the confidence that there is a robust framework in place capable of efficient capital formation, and one that is collectively supported by the eco-system.
6. Open	No jurisdictional restrictions	Enable a vehicle to allow businesses to accept investment (and funding) from other jurisdictions on a limited basis encouraging competitiveness, collaboration and cross border participation.
7. Additive	New channels and source of funds	Ensure crowdfunding regulations are designed to open up largely a new source and channel of funds by minimizing the impact and overlap with existing exempt market exemptions.
8. Protective	Investment caps and reasonable due diligence	Protect investors by limiting investment exposure, promoting education, fraud detection and implementing a fair and reasonable amount of due diligence and compliance without overly burdening the process.

Contact Information

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August 25, 2016

BY EMAIL

Jessie Gill, Legal Counsel, Corporate Finance
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Dear Sirs/Mesdames:

**Re: ASC Notice and Request for Comment Proposed Multilateral Instrument 45-108
Crowdfunding (the “Proposed MI”)**

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to provide the following general comments on the Proposed MI.

We support regulatory measures designed to assist the capital raising needs of Canadian issuers while strongly emphasizing investor protection. Investor protection in the exempt market is best enhanced by providing clear risk disclosures, taking steps to verify eligibility to participate in the market, and implementing a best interest standard on all registrants.

We have previously expressed our concerns with respect to the crowdfunding prospectus exemption. Many market participants agree that crowdfunding investment decisions are based mostly on emotions, which could result in a precarious situation for investor protection. Given the small amounts of capital that can be raised, both by issuers and the individual limits placed on investors themselves, we do not think it will be economically feasible for issuers to raise capital based on this exemption if the terms are different in various jurisdictions. We are thus supportive of harmonizing, to the extent possible, the exemption with that adopted by the Ontario Securities Commission, including with respect to the proposed annual investor investment limits.

As harmonization with the existing exemption in other jurisdictions is important, our comments below are intended to reflect concerns we have raised in other jurisdictions with respect to the prospectus exemption and could potentially be considered for future amendments to the MI or for additional guidance, where applicable.

¹ The CAC represents more than 15,000 Canadian members of the CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfainstitute.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

² CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 135,000 members in 151 countries and territories, including 128,000 CFA charterholders, and 145 member societies. For more information, visit www.cfainstitute.org.

We continue to be of the view that the exemption should be restricted to non-reporting issuers. If the exemption is intended to address a funding gap for small and medium sized issuers, there should not be a need for those issuers already subject to an expensive continuous disclosure regime to raise money through this exemption. In addition, it could be confusing for people investing in more than one issuer through the portal if issuers have different reporting requirements. They may not understand the difference between the reporting obligations of a reporting issuer and a non-reporting issuer. As an example, if an investor purchases the securities of a reporting issuer through the portal as their first investment, they might come to expect every issuer in which they invest through the portal to have a robust continuous disclosure regime, which would not be the case for the investment they next make in a non-reporting issuer.

We agree that requiring a majority of the issuer's directors be resident in Canada will help the objective of ensuring the initiative is aimed at facilitating capital raising for Canadian issuers. It is important to continue to permit some of the directors to be non-residents to help ensure that each issuer can structure its internal affairs appropriately and encourage participation by the directors best suited for the particular issuer and industry.

We think a limit of \$1.5 million could be sufficient for issuers to raise start-up capital while still offering some level of investor protection, however the appropriate limits will be industry specific (for example, technology start-ups are quite capital intensive). More information could be required in order to determine if the limits should vary depending on the industry classification of the issuer. In all circumstances, if the maximum limit is too low, it could set up an issuer for failure before it has even begun operations. If the maximum limit is too high, however, given the proposed \$2,500 individual investor limit for non-accredited investors, an offering could result in an unworkable number of small investors, and the costs of communicating with such investors could become untenable.

We do not think that there should be separate investment limits for accredited investors who invest through the portal. Simply being an accredited investor is not in all cases a proxy for investor sophistication. Possessing investable assets above a certain threshold may not imply familiarity with investments, as the threshold could be reached through inheritances and lottery winnings, as examples. Neither an asset test nor an income test is sufficient to determine which investors have better access to information and are sophisticated enough not to require as much protection as others.

The proposed requirements for registered portals and the caps on investment are important safeguards, but additional restrictions could be considered specifically to address concerns relating to investors with low financial literacy and/or minimal investment experience. Timely and effective enforcement will also be key to mitigating the risk of abuse and fraud. Staff of the ASC should monitor, in particular, that the requisite financial reports are provided in a timely fashion and completed as required.

Although issuers could be expected to seek additional financing, many commentators have noted a "Series A crunch", referring to the problems faced by start-ups when attempting to secure the next level of financing once the initial seed capital is obtained³. We believe that any difficulty in achieving the next level of financing might make it even more difficult for investors to dispose of their securities due to the expected lack of any secondary market. As a result, we believe investors

³ Ross S Weinstein, "Crowdfunding in the U.S. and Abroad: What to Expect When You're Expecting" (2013) 46 Cornell Int'l LJ 427.

on the portal (who may not be familiar with the resale requirements in other forms of private placements) should be provided with information regarding to whom these securities can be sold, and a description of the proposed hold periods. In order to help mitigate the risk of fraud, issuers could be required to disclose information with respect to persons with signing authority over the financial accounts of the issuer (if it differs from the principals, directors, etc. for whom disclosure is otherwise required). The founders of the issuer could be required to escrow their existing securities for a period of time, in order to ensure they retain a substantial stake in the issuer. The resulting ownership structure after completion of the capital raising through the exemption should be disclosed. With respect to disclosure requirements, unique obligations may be required in order to provide investors with tangible, relevant information on the issuer without requiring the issuer in the specified cases to provide expensive, audited financial statements. For example, the issuer could be required to post tax returns or assessments (redacted as needed to protect confidential information) as a method of confirming revenue (or the lack thereof).

In addition, the Proposed MI should require notice of the specified significant events in Alberta.

Given the likelihood that investors purchasing securities in reliance on the crowdfunding exemption will not have extensive investment experience, it is very important for portals to have the primary due diligence responsibility relating to the issuers “listed” on the portal, including the responsibility to compete domestic background checks. To the extent any directors, officers, promoters or control persons are non-residents of Canada, international background checks should also be required. Due to the costs and time delays that such checks may entail, it may not be necessary to run international background checks on every resident Canadian.

The portals could be required to assist issuers in providing registrar and transfer agent type functions to help issuers monitor and communicate with their security holders, particularly as it relates to social media communications. When the exemption is utilized by start-up or smaller companies in the growth phase, it is likely that the capital raising sought by the exemption will not be isolated financing, and companies will likely seek additional funds through alternative methods concurrently or shortly thereafter⁴. Investors may not be cognizant of the fact that each additional financing will dilute their investment, and thus the risk warning (or other warning prominently displayed by the portal) should specifically address the risk of dilution due to additional financings, whether through the portal or otherwise. Issuers should be required to notify investors through the portal of any additional financings.

We support the CSA initiative that is underway with respect to potentially imposing a statutory best interest duty on registrants, and strongly support imposing such a duty on registered dealers providing advice to clients, including exempt market dealers providing advice on privately placed securities. Retail investors rely primarily on their advisers to let them know if an investment is appropriate for their level of risk tolerance. Even though it is proposed that investors sign a risk acknowledgement form, investors assume that their advisers are looking out for their best interests. If such a standard were formally implemented, it would help to ensure that an investment in privately placed securities under the exemption is in fact in a client’s best interests, which would materially enhance investor protection.

⁴ *Ibid.*

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have or to meet with you to discuss these and related issues in greater detail. We appreciate the time you are taking to consider our points of view. Please feel free to contact us at chair@cfaadvocacy.ca on this or any other issue in future.

(Signed) *Michael Thom*

Michael Thom, CFA
Chair, Canadian Advocacy Council