Taddle Creek Capital
Capital Markets Advisory

January 24, 2013

John Stevenson
Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8

Via Email: jstevenson@osc.gov.on.ca

Dear Sir:

Re: O.S.C. Staff Consultation Paper 45-710 (Considerations for New Capital Raising Prospectus Exemptions)

I am pleased to respond to your invitation to comment on your proposals relating to additional prospectus exemptions.

By way of background, I am a career-long investment banker. For the past few years, I have been offering general advice to companies on the process of capital-raising in the Canadian capital markets. In 1994-1995, I was a member of the O.S.C.'s *Task Force on Small Business Financing*. Finally, until recently and for many years, I was also a member of the Ontario Local Advisory Committee to the TSX Venture Exchange.

I do not plan to comment on your entire paper, but will rather comment on certain areas or issues that are of interest to me.

Prospectus Exemption for "Crowdfunding"

First, I want to applaud you for venturing into this area. Indeed, "venture" is the operative word. Companies that will use such an exemption are very early-stage companies, ones that are otherwise unable to access capital to fund their growth. As you correctly imply, this is venture capital before the professional VCs might even get involved (especially Canadian VCs), before even angels may choose to tread. It is "friends and family" in a world of social networking.

Putting money into such a company is not investing as we normally think of it. It is pure speculation. It is a tilt against windmills, a wager that, against daunting odds, you will come out a winner. If this sounds familiar to us in Ontario, it should. That is what a lottery is, that is what gambling in a casino is, and both are entirely legal in this province. I might add that, slim thought they may be, I like my chances with a technology start-up a whole lot more than I like the odds at a casino or in a lottery. Besides, the potential for good is vastly

higher (we need more venture capital, as the Jenkins Committee recently highlighted), and the potential for economic benefit, in the event of a "win", is massively larger (think about the graphic designer who took shares in lieu of cash payment in Facebook's early days). And, best of all, it is far more fun than sitting in a dark casino, shoving coins into a slot.

The challenge is to control the potential damage without rendering the mechanism unattractive or inutile to issuer or "investor". That means you must start by accepting the very real potential for fraud, and then take sensible steps to limit the quantum of loss without going to great lengths to try to prevent it. You note that the "existing non-equity crowdfunding models in the U.K. have reported a two percent rate of fraud, but that such a low rate of fraud may not apply to the equity crowdfunding models under consideration by securities regulators". Even with a 10% rate of fraud, you would undoubtedly be able to stack all the Canadian crowdfunding frauds for the next 20 years on end and not come close to equalling one Sino-Forest. If you insist on trying to prevent fraud, then I would stop at background checks.

I think your proposals do an admirable job of balancing risk and utility. The most important damage-control mechanism is a reasonable limit on the amount that any one investor can devote to this activity and any one company can take from it, and I think your proposed limits on offerings ($1.5 million in any 12-month period) and on investment ($2,500 in any one investment and $10,000 in any one year) are, if anything, generous.

Also, given the potential for fraud, you must ensure that real recourse is available in the event of fraud, however meaningless it may turn out to be. That may well mean limiting the exemption to Canadian companies. I think it would be asking too much to make this available to emerging markets companies.

Treating ultra-early-stage companies like others (e.g. requiring audit) is not really appropriate. It is far too costly and does nothing to contain the inherent risk. These companies will be not much more than some computers, some office space, maybe a bit of specialized equipment. Regular progress reports are critical, including how proceeds have been spent, how much is left, and how much more will be needed to achieve their goals. The format should be very user-friendly and not overly formal. The companies should be able to meet their disclosure obligations by putting this information up on the portal.

Prospectus Exemption based on Investment Knowledge

Any exemption that broadens the potential base of investors is going to be good for SMEs. Given the CSA's struggle to develop an appropriate proxy for sophistication, this proposed exemption can only be a good thing.

I personally believe that a person cannot truly have an understanding of the business of investment without having worked in some capacity in the investment industry. That is why we have things like required registration, disclosure standards, etc.: to ensure that only people who do (or should) understand investments deal properly with those who do not. So, in my view, it makes a whole lot of sense to require relevant work experience.

It also makes sense to combine that work experience with some sort of professional designation. I think you should not uncouple them. However, I also believe that your proposed educational qualification criteria are far too narrow. First, as far as the need to have relevant work experience is concerned, it seems odd to me that the basic educational requirement of the Canadian securities industry, the meeting of which qualifies a person to work as a registrant and sell securities to the public (i.e. the Canadian Securities Course) is not included. Second, in my experience as the head of investment banking for a large independent investment dealer, the best entry-level investment bankers are C.A.s (Chartered Accountants); they are far better than MBAs. So you really should add the C.A. designation to your list.

Prospectus Exemption based on Registrant Advice

This is an exemption for people who would otherwise not qualify to purchase in the exempt market (except by way of any crowdsourcing exemption). There is no other available exemption for them to fit into. They are "the public". These are people who may well trade every day in securities, even buy new issues, on the advice of a registrant. However, in these activities, these people have access to either primary or secondary market statutory disclosure and liability provisions which would not be available under this proposed exemption. I think it would be a mistake to make such an exemption available to a "widows and orphans" client of any registrant that is able to underwrite a new issue, even if the issuer is not technically "connected" or if the registrant has a fiduciary duty to act in the best interests of the client. That goes for investment dealers as well as EMDs. There is too much potential for conflict of interest without statutory protection for this type of investor.

Thank you for the opportunity to comment. I look forward to reading the other submissions and to seeing the outcome of this process.

Yours truly,

Nelson Smith
President & CEO
Taddle Creek Capital