June 16, 2014
comments@osc.gov.on.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8

Re: Request for Comments re: Introduction of Proposed Prospectus Amendments and Proposed Reports of Exempt Distributions in Ontario

Dear Sir or Madame,

We are writing in regards to the proposed prospectus exemptions which were issued for comment by the OSC on March 20, 2104.

About NorthCrest Partners Inc.

NorthCrest is a small Exempt Market Dealer and works in the growth company segment of the market, both assisting private and public entities with capital markets needs. The principal of NorthCrest, Mark Lawrence, is also a Director of the Network of Angel Organizations – Ontario, as he has been active in the Angel segment of the market for a number of years. He has been active in the Capital Pool Company segment of the TSXV, both founding CPCs and advising companies on their CPC strategy**.** Some of those CPC and RTO strategies have been to attract US issuers to become Canadian companies and seek funding in the Canadian capital markets.

Introduction.

NorthCrest applauds the OSC for the timely introduction of the proposed OM exemption, and in particular the Crowdfunding exemption. As can be seen above, I have volunteered a great deal of time helping to add best practices to the Angel community to better provide for the funding gap that small companies encounter. Increased syndication and common due diligence standards are assisting these investors and the entrepreneurs they invest in. Creating new mechanisms to safely allow the increased access to capital by these companies is clearly in everyone's interest.

I will provide some specific comments to the OSC questions below, but wanted to address two issues first.

Need for Dual Registered EMD/CrowdFunding Portal - I am concerned that the OSC is considering preventing the dual registration of an EMD and Crowdfunding portal("CF") All the EMDs that have diligently registered, followed compliance, met educational requirements, minimum capital and insurance, and in most instances, serve the startup and small public SME companies, are now being effectively told that their credentials are not good enough to run a CF portal. A CF portal is a natural extension of the market the EMD currently serves. In addition to the confusion, if you are not an EMD already, but now

meet essentially all the same EMD requirements you can be registered as a CF portal. We are now seeing a trend for technology focused groups seeking to start a CF without deep experience in the regulatory side of the Capital Markets. This same issue about not trusting an EMD in this market place arises in the proposed use of an IROC advisor to deem an investor as an Eligible Investor. I think the majority of IROC advisors will not be permitted by their compliance department to make any sort of investor comment for an issue that they are not involved in. I believe EMDs will have a better understanding of the product and should be able to make the call. Why not let CFAs also make that determination?

In our opinion, the economics in Canada will not supoort standalone CF portal entities. The OSC has suggested, in a recent seminar, that the high volume of deals, coupled with advanced technology to streamline the process will make it economic. Unfortunately the cost of technology to repeatedly handle over 600 investors in each deal to reach the proposed $1.5 million cap, plus the cost of compliance and due diligence will likely be overbearing for most, if not all, new market entrants, especially without being able to also attract much large investments from accredited investors as does an EMD.

We believe that an EMD should be allowed to have dual CF registrations without increased working capital requirements, dual CCOs, insurance and bonding. That is even preferred over enabling a holding company to own one of each, because the extra costs will be extreme. The ideal portal will have buttons for accredited investors to pursue and CF investors to pursue. The portal will have due diligence done once and this is a saving for issuers. Many issuers will not proceed with a deal if they have to pay a work fee for due diligence twice. Many issuers are currently balking at paying for diligence at all. This will also enable the EMD/CF portal to run one integrated technology platform. It will also eliminate concerns that an EMD might have about the different marketing pitch the standalone CF portal might be applying under the direction of a different registrant. A common EMD/CF portal can better control the education of the issuer as to what can or cannot be done during a fund raising activity. A common EMD can attract a large lead order from an accredited investor that will help the CF side of the raise.

Angel Investor Reporting - The other main point we wish to make is the proposed new levels of reporting for each type of investor exemption. We would like to propose that all reports should have an optional box to enable an investor to classify themselves as an Angel Investor. The Angel communities are seeking to better identify to the government the breadth and depth of Angel investor involvement in the growth of entrepreneurial companies. Statistics to date about the follow-on investment rate of Angel involved companies indicate that Angel investors are one of the best economic drivers of job creation in the country with the least amount of government subsidy. Having better statistics to follow the activities would be invaluable to all levels of government.

Framework of NorthCrest Replies

We believe that the goals of the new exemptions should be to 1) provide issuers, particularly SMEs, access to the largest numbers of accredited and non – accredited investors, 2) minimize compliancy costs to the issuers by reducing duplication of due diligence and ability to hire one firm to attract both accredited and non-accredited investors under new Crowdfunding rules, 3) work within a harmonized set of rules across the country, as much as possible, 4) avoid new securities regulations if existing corporate law is suitable.

Specific requests for comment – OM Prospectus Exemption

General

1) We note that the existing OM Prospectus Exemption available in other CSA jurisdictions has not been frequently used by start-ups and SMEs. Have we proposed changes that will encourage start-ups and SMEs to use the OM Prospectus Exemption? What else could we do to make the OM Prospectus Exemption a useful financing tool for start-ups and SMEs?

The OM disclosure requirements regarding audited financials and the legal costs associated with the preparation and review of the offering documents are challenging for Startups and SMEs given limited financial resources, and not practical for small financings (e.g. under $1M). As well, if a registered dealer is involved in the offering, due diligence work fees and dealer commissions further reduce the net proceeds available to the Issuer, from the transaction. Depending on the requirement and availability of follow-on financing rounds to support the business plan, any ongoing disclosure requirements are costly and therefore problematic to Issuers, and should be avoided.

The amendment, introduced through Blanket Order 45-512 in Alberta relaxed the requirements for audited statements for financings less than $500,000, with no ongoing disclosure requirement (beyond that required by the Business Corporations Act of Alberta), thus making the OM Exemption more attractive for SMEs. This is the minimum threshold of viability for SMEs in regard to utilizing the OM Exemption. To increase the attractiveness and practicality of the OM Exemption for non-reporting SMEs the Commission should consider setting threshold for audited financials at a minimum $750,000 or preferably $1 million, and the requirement for ongoing disclosure should be governed by the requirements already established in the Corporations Act of Ontario. The Commission should also provide some clarification on when an Issuer might be required to sell through a registered dealer (i.e. rules regarding brokered vs non-brokered private placements using an OM).

Issuer qualification criteria

2) We have concerns with permitting non-reporting issuers to raise an unlimited amount of capital in reliance on the OM Prospectus Exemption. Should we impose a cap or limit on the amount that a non-reporting issuer can raise under the exemption? If so, what should that limit be and for what period of time? For example, should there be a "lifetime" limit or a limit for a specific period of time, such as a calendar year?

The OM Exemption is not typically used for startup and early stage financings. As such, imposing caps on the amount of capital required for growth and expansion will vary widely by industry sector and business strategy.

The OM Exemption has been used extensively in Western Canada, in multiple industries and with varied size deal and stage of SMEs, with no significant issues suggesting that limits be placed on capital raised.

As such, we agree with the Commission's proposal that there should be no issuer caps and no limits on the number of times an Issue utilize the OM Exemption in any timeframe.

3) What type of issuer is most likely to use the OM Prospectus Exemption to raise capital? Should we vary the requirements of the OM Prospectus Exemption to be different (for example, disclosure requirements) depending on the issuer's industry, such as real estate or mining?

Different industry sectors may benefit from additional rules and guidance by the Commission on additional disclosure requirements, if specific problems emerge in the markets, in a second phase of review. The Commission should not delay availability of the generalized OM framework, in the interest of developing these industry-specific requirements. Also, excluding segments (e.g. Real Estate entities) or Issuer types (e.g. Investment Fund) is unfairly limiting the Issuers in those segments from an important new capital formation vehicle that has proven valuable in other jurisdictions. This restriction could have constraining or negative impact on economic growth.

With regard to investment funds, it is very important to allow investment funds (limited partnership units), in particular Venture Capital funds to raise money using the OM Exemption. The VC industry in Canada has changed dramatically in the past fifteen years, in particular with institutional investors exiting this asset class, resulting in dramatic reduction in capital available to finance SMEs. Within the global SME synergies are starting to emerge between and among Angel Investor Groups, VCs and Equity Crowdfunding Portals where investments are increasingly being syndicated. If fact, there are a growing number of investment fund managers in Canada, USA and Europe that are creating specific pooled investment funds for an investment in a single company/deal. For example, a VC or an Angel Investor (group) might lead, or co-invest in a deal, and then leverage an Equity Crowdfunding model/portal to fill up the fund (round of financing). The unique issues of investment funds are already governed by 31-103 requiring investment fund manager and portfolio managers.

From an early stage, non-reporting issuer perspective, having large numbers of small investors can be a significant challenge from an administration, investor relations and shareholder communications perspective - that is mitigated with having a single shareholder (and often a value added board member) from a pooled investment vehicle. Allowing investment funds to be marketed under the proposed OM Exemption would allow the broadest access to private capital for the Issuer, in all industry sectors.

Finally, additional guidance for Issuers on what to include, or not, and how much disclosure or not would be valuable to Issuers and their service providers (e.g. appropriate minimum number of risk disclosures in the OM).

4) We have identified certain concerns with the sale of real estate securities by non-reporting issuers in the exempt market. As phase two of the Exempt Market Review, we propose to develop tailored disclosure requirements for these types of issuers. Is this timing appropriate or should we consider including tailored disclosure requirements concurrently with the introduction of the OM Prospectus Exemption in Ontario?

No, refer to comments above in 4). We recognize that the OM Exemption introduces a learning curve for both Issuers and Regulators, but improved access to capital is critical for SMEs as well as growth/expansion stage Issuers. We recommend not delaying the release of the general OM framework and provide more industry specific/sector guidance in second review phase, as issues arise or more experience suggests amendments are required.

Types of securities

5) We are proposing to specify types of securities that may not be distributed under the OM Prospectus Exemption, rather than limit the distribution of securities to a defined group of permitted securities. Do you agree with this approach? Should we exclude other types of securities as well?

> We agree with the approach where the Commission describes what securities are excluded, and why. However, restricting convertible securities (e.g. a convertible debenture), conventional warrants and rights, or special would be highly-problematic for SMEs. In startup and early stage financing convertible securities and warrant are commonly used to defer complex valuation issues (e.g. in seed stage or Angel-lead financings, or bridge financings), or to "sweeten" the opportunity for early-stage, higher risk financing rounds.

6) Specified derivatives and structured finance products cannot be distributed under the OM Prospectus Exemption. Should we exclude other types of securities in order to prevent complex and/or novel securities being sold without the full protections afforded by a prospectus?

> We don't believe any restrictions on the type of securities is necessary. Most private offerings under OM Exemptions are pretty vanilla (notwithstanding the comments regarding convertible securities and warrants above), and any structured or derivative, complex securities will be developed with support from qualified securities counsel. An preferred alternative approach is per section 4) – don't restrict any class of securities in the general OM (consistent with AB and other jurisdictions), and introduce more guidance in follow on review process, if required.

Offering parameters

7) We have not proposed any limits on the length of time an OM offering can remain open. This aligns with the current OM Prospectus Exemption available in other jurisdictions. Should there be a limit on the offering period? How long does an OM distribution need to stay open? Is there a risk that "stale-dated" disclosure will be provided to investors?

> We agree with the Commission that restricting the length of time that an OM can remain open is not required.

Registrants

8) Do you agree with our proposal to prohibit registrants that are "related" to the issuer (as defined in National Instrument 33-105 Underwriting Conflicts) from participating in an OM distribution? We have significant investor protection concerns about the activities of some EMDs that distribute securities of "related" issuers. How would this restriction affect the ability of start-ups and SMEs to raise capital?

> We don't agree with this restriction. The whole IROC market place has conflicts declared all the time. Proper declaration and compliance should be used in this segment too. Consider our response to section 3) above, regarding the emerging model of pooled VC investment funds, created for a financing transaction, with a single Issuer – the Commission's proposal would appear to restrict the VC from using the OM Exemption as a vehicle to raise money for SMEs, for such a fundraising scenario.
>
> Similarly, a startup Equity Crowdfunding portal, EMD or an EMD wanting to raise capital to launch an Internet Portal for distributing private offerings would be restricted from using an OM Exemption as a vehicle to finance their own business.

Finally, there are clear signs in the US and other jurisdictions that the roles of VC, Angel networks and non-accredited investors in the startup and SME segment of the capital markets are converging, especially with the advent of Equity Crowdfunding. It is easy to imagine either; a) an EMD that wants to establish and operate a related or connected investment fund to participate, perhaps as a lead investor catalyst, in private offerings they are otherwise marketing to a broader client base, or b) a VC that wants to use the OM Exemption to raise money for a specific SME financing transaction (dedicated fund), while making the investment opportunity available to both accredited and non-accredited investors, through a VC owned, and registered Internet portal.

We believe that the KYC, KYP and suitability obligations of registrants are well defined and registrants must comply by the existing regulations, even if related to the issuer.

9) Concerns have been raised about the role of unregistered finders in identifying investors of securities. Should we prohibit the payment of a commission or finder's fee to any person, other than a registered dealer, in connection with a distribution, as certain other jurisdictions have done? What role do finders play in the exempt market? What purposes do these commissions or fees serve and what are the risks associated with permitting them? If we restrict these commissions or fees, what impact would that have on capital raising?

Today, finders must refer investors to either an Issuer or (in case of brokered offering) a registrant. In case of brokered offering the registrant is required to apply KPY, KYC and suitability validation – so no need in this scenario to prohibit finder's fees. Under an OM, if the Issuer is relying on the OM Exemption, the OM disclosure is adequate investor protection, especially when existing Blanket Orders cap non-accredited, and ineligible investor participation at $10K. Fees paid to unregistered Finders when an OM Exemption is being used, and investor caps are imposed, does not significantly increase the risk to shareholders.

As a registrant we are bound to only pay commissions or finder's fees that are legally entitled to accept such fees. It is sometimes difficult to know if a finder has reached the business trigger to be a registrant themselves and additional guidance from the OSC in this matter on how many referrals in a given period trigger the registration would be useful. I would like to see the OSC taking greater strides to seek enforcement against those entities that continue to repeatedly offer funding on an contracted percentage success fee basis without ever taking the steps or costs of registration that we the compliant registrants face.

Investor qualifications – definition of eligible investor

10) We have proposed changing the $400,000 net asset test for individual eligible investors so that the value of the individual's primary residence is excluded, and the threshold is reduced to $250,000. We have concerns that permitting individuals to include the value of their primary residence in determining net assets may result in investors qualifying as eligible investors based on the relatively illiquid value of their home. This may put these investors at risk, particularly if they do not have other assets. Do you agree with excluding the value of the investor's primary residence from the net asset test? Do you agree with lowering the threshold as proposed?

No comment

11) An investor may qualify as an eligible investor by obtaining advice from an eligibility advisor that is a registered investment dealer (a member of the Investment Industry Regulatory Organization of Canada).

Is this an appropriate basis for an investor to qualify as an eligible investor? Should the category of registrants qualified to act as an eligibility advisor be expanded to include EMDs?

> Yes, the concept is good, but needs to be expanded to include EMDs and CFAs. However, we believe that few registered investment dealers will permit their brokers from commenting on issuers that are not going through their corporate finance department. Those dealers have already imposed large fees to review private placement documents as it is, largely in our view, to discourage the placement of investor's funds in non-liquid placements. They are not actively encouraging their clients to support new entrepreneurs and small growth companies from both a risk profile and from locking in capital that could otherwise be placed in more liquid investments.

Investment limits

12) Do you support the proposed investment limits on the amounts that individual investors can invest under the OM Prospectus Exemption? In our view, limits on both eligible and non-eligible investors are appropriate to limit the amount of money that retail investors invest in the exempt market. Are the proposed investment limits appropriate?

> No. We believe that having a simple eligible versus ineligible test, is adequate, with the proposed $10,000 per investment cap. Consistency with other jurisdictions (in this case AB) is preferred wherever possible.

Point of sale disclosure

13) Current OM disclosure requirements do not contain specific requirements for blind pool issuers. Would blind pool issuers use the OM Prospectus Exemption? Would disclosure specific to a blind pool offering be useful to investors?

> We have no specific concerns about the current disclosure requirements set forth in 45-106. If specific market concerns emerge during a phase two review, specific disclosure requirements for blind pools would be acceptable.

14) We are not considering any significant changes to the OM form at this time. However, we are aware that many OMs are lengthy, prospectus-like documents. Are there other tools we could use at this time (short of redesigning the form) to encourage OMs to be drafted in a manner that is clear and concise?

> Current form is adequate. More prescriptive guidance in phase two review on what the Commission needs for disclosure, especially in the case of unique industry concerns (e.g. Real Estate).

Advertising and marketing materials

15) In our view any marketing materials used by issuers relying on the OM Prospectus Exemption should be consistent with the disclosure in the OM. We have proposed requiring that marketing materials be incorporated by reference into the OM (with the result that liability would attach to the marketing materials). Do you agree with this requirement?

> This will require further Commission guidance as to what specifically constitutes issuers' marketing materials beyond the OM document and a supporting related investor presentation. Is this intended to include general corporate, product and market information contained in a company website, blog, published white papers, etc.? When it comes to product or service

capabilities, competitive landscape, industry trends, market size and growth, etc., historical content visible in a company web site and in published documents could easily be, and probably is inconsistent to that in an OM document prepared at some later date. It would be cost prohibitive to undertake the legal review to ensure that all publicly visible information about a company and its products is consistent with an OM.

It would be helpful to have a consensus by regulators re: standard disclosure to be put on investor road show materials, to be clear that the disclosure in investor presentations and Business Plan/Executive Summary documents contains forward looking statements and that the investor must rely only on the OM should be adequate.

Ongoing information available to investors

16) Do you support requiring some form of ongoing disclosure for issuers that have used the OM Prospectus Exemption, such as the proposed requirement for annual financial statements? In our view, this type of disclosure will provide a level of accountability. Should the annual financial statements be audited over a certain threshold amount? If the aggregate amount raised is $500,000 or less, is a review of financial statements adequate?

We believe that a $750,000 threshold is covered by an annual review engagement of financials, and that over that amount an audit should be required. This will be contrary to Business Corporations acts.

17) We have proposed that non-reporting issuers that use the OM Prospectus Exemption must notify security holders of certain specified events, within 10 days of the occurrence of the event. We consider these events to be significant matters that security holders should be notified of. Do you agree with the list of events?

Agree for raises in excess of $1,000,000

18) Is there other disclosure that would also be useful to investors on an ongoing basis?

No. Disclosure defined in the Corporations Act is adequate.

19) We propose requiring that non-reporting issuers that use the OM Prospectus Exemption must continue to provide the specified ongoing disclosure to investors until the issuer either becomes a reporting issuer or the issuer ceases to carry on business. Do you agree that a non-reporting issuer should continue to provide ongoing disclosure until either of these events occurs? Are there other events that would warrant expiration of the disclosure requirements?

We do not agree that any of the proposed ongoing disclosure requirements is either practical or necessary. If compliancy costs and risks are too high, the OM Exemption will not be a financing vehicle that can be practically used by SMEs.

Reporting of distribution

20) We believe that it is important to obtain additional information to assist in monitoring compliance with and use of the OM Prospectus Exemption. Form 45-106F11 would require disclosure of the category of "eligible investor" that each investor falls under. This additional information is provided in a confidential

schedule to Form 45-106F11 and would not appear on the public record. Do you agree that collecting this information would be useful and appropriate?

This is acceptable. (but add Angel Investor as a check box too).

Specific requests for comment – FFBA Prospectus Exemption

Types of securities

1) Do you agree with our proposal to limit the types of securities that can be distributed under the FFBA Prospectus Exemption to preclude novel and complex securities? Do you agree with the proposed list of permitted securities?

We have the same concerns with the proposed exclusion of convertible debt, warrants and special warrants, and limited partnership units, as described under the OM Exemption (refer to section 3 of OM Exemption Comments).

With regard to investment funds, it is very important to allow investment funds (limited partnership units), in particular Venture Capital funds to raise money using the OM Exemption. The VC industry in Canada has changed dramatically in the past fifteen years, in particular with institutional investors exiting this asset class, resulting in dramatic reduction in capital available to finance SMEs. Within the global SME synergies are starting to emerge between and among Angel Investor Groups, VCs and Equity Crowdfunding Portals where investments are increasingly being syndicated. If fact, there are a growing number of investment fund managers in Canada, USA and Europe that are creating specific pooled investment funds for an investment in a single company/deal. For example, a VC or an Angel Investor (group) might lead, or co-invest in a deal, and then leverage an Equity Crowdfunding model/portal to fill up the fund (round of financing).

We don't believe any restrictions on the type of securities is actually necessary. Most private offerings are pretty vanilla (notwithstanding the comments regarding convertible securities and warrants above), and any structured or derivative, complex securities will be developed with support from qualified securities counsel. A preferred alternative approach is per section 4) – don't restrict any class of securities in the general FFBA (consistent with AB and other jurisdictions), and introduce more guidance in follow on review process, if required in a subsequent review phase.

Offering parameters

2) Should there be an overall limit on the amount of capital that can be raised by an issuer under the FFBA Prospectus Exemption?

No.

Investor qualifications

3) Do you agree with the revised guidance in sections 2.7 and 2.8 of 45-106CP regarding the meaning of "close personal friend" and "close business associate"? Is there other guidance that could be provided regarding the meaning of these terms?

The definition of FFBA investor is acceptable, but the prohibition on advertising is not required. Consistency across jurisdictions is more important here than the Commission's reasonable

position that advertising is not needed to reach a potential FFBA investor. As well, there are many scenarios where an Issuer is publicly marketing a private offering under the OM Exemption and due to investor caps, a FFBA investor may prefer to subscribe for shares under the FFBA exemption in the same financing. Issuers will want to afford FFBA investors the same disclosure provided to qualified investors under the OM Exemption. A prohibition on finder's fees is acceptable.

Investment limits

4) Should there be limits on the size of each investment made by an individual under the FFBA Prospectus Exemption or an annual limit on the amount that can be invested?

No.

Risk acknowledgement form

5) Does the use of a risk acknowledgement form that is required to be signed by both the investor and the person at the issuer with whom the investor has the relationship mitigate against potential risks associated with improper reliance on the FFBA Prospectus Exemption?

It does mitigate and this risk acknowledgement form is acceptable.

Reporting of distribution

6) We believe it is important to obtain additional information in Form 45-106F11 to assist in monitoring compliance with and use of the FFBA Prospectus Exemption. Form 45-106F11 would require disclosure of the person at the issuer with whom the investor has a relationship. This additional information is provided in a schedule to Form 45-106F11 that does not appear on the public record. Do you agree that collecting this information would be useful and appropriate?

No issue. (but add Angel Investor as a check box too).

Specific requests for comment – Existing Security Holder Prospectus Exemption

Issuer qualification criteria

1) Do you agree with allowing any issuer listed on the TSX, TSXV and CSE to use the Existing Security Holder Prospectus Exemption?

Yes.

Offering parameters

2) Do you agree that the offer must be made to all security holders and on a pro rata basis? Do you agree that these conditions support the fair treatment of all security holders?

Yes.

3) Do you agree that it is not necessary to differentiate between a security holder that bought securities in the secondary market one day before the announcement of the offering and a security holder that bought the securities some longer period before the announcement of the offering?

Yes. Not necessary.

Resale restrictions

4) Should securities distributed under the Existing Security Holder Prospectus Exemption be freely tradeable?

A four month hold period is acceptable.

Specific requests for comment – Crowdfunding Prospectus Exemption and Crowdfunding Portal Requirements

Crowdfunding Prospectus Exemption

Issuer qualification criteria

1) Should the availability of the Crowdfunding Prospectus Exemption be restricted to non-reporting issuers?

No. This should be equally accessible to reporting and non-reporting issuers.

2) Is the proposed exclusion of real estate issuers that are not reporting issuers appropriate?

No. If different sectors require specific disclosure requirements this can be developed in a follow-on review phase.

Excluding investment funds use of the Equity Crowdfunding Exemption is a major concern to us. Startup and early-stage financing (in light of a severe lack of available capital for SMEs from VCs, Angel Investors and FFBA) is a challenging, often frustrating and time consuming process for directors, and executive officers of Issuers. Having access beyond FFBA and accredited investors to the general public as an investor pool is critical to the success of our SME-led economy in Canada. However the concept of connecting with effectively strangers through a portal, and creating enough confidence and interest to foster investment is very challenging. The concept of a lead investor, such as a prominent Angel investor(s) within a community, or even a VC/Institutional investor is key to building momentum in a round with the general public.

A new investment fund model is emerging in Europe, the USA, and Canada where a sophisticated Angel investor or VC will "lead" a financing (subject to Registrants due diligence), and leverage an Equity Crowdfunding platform to reach a broader prospective investor community. A dedicated fund is established for the sole purpose of raising the capital and completing the financing for a particular transaction. However, the Issuer in this case is the fund manager, and securities are limited partnership units. The model also consolidates the capitalization table for from potentially hundreds of investors to one designated fund manager. This financing structure is being used now in the Accredited Investor/Title II regime in the USA, and it being monitored for how it plays with the general public, under Title III.

Restricting investment funds, from offering limited partnership units, via a Crowdfunding Portal is going to constrain the startup and SME capital formation opportunity, and disadvantage Canadian business from their competitors in the USA.

Finally, it is not clear whether Convertible Debenture securities offerings are restricted from an Crowdfunding Offering – this type of security is one of the primary security types used by startups and SMEs in early stage financings.

3) The Crowdfunding Prospectus Exemption would require that a majority of the issuer's directors be resident in Canada. One of the key objectives of our crowdfunding initiative is to facilitate capital raising for Canadian issuers. We also think this requirement would reduce the risk to investors. Would this requirement be appropriate and consistent with these objectives?

The Canadian startup and SME community are in fierce competition for talent, markets and capital with US companies. If the Crowdfunding rules for Issuers are too restrictive – Canadian entrepreneurs will simply bypass the Canadian capital markets.

Likewise, the economics of running the CF portal will make it important that it can syndicate in US and international deals and offer them to their jurisdiction in Canada.

Restricting board makeup to be majority Canadian is a serious barrier to Canadian ventures building the right team (including board of directors) to compete on a global state. SMEs have a hard enough time attracting great management and board members without putting geographic constraints on the Issuer, in this regard,

Canadian companies will continue to have a 25% resident Canadian director contingent.

Finally, an equally important consideration in the Crowdfunding movement is allowing the general public to participate in the next Apple, Google, Facebook or Twitter. By limiting US startups from accessing the Canadian capital markets (which is what this proposal effectively does) we are limiting the Canadian publics opportunity to get in on the next big thing. We do not believe the US SEC is not imposing this restriction the other way which would be restrictive to Canadian Issuers seeking capital in the USA.

Offering parameters

4) The Crowdfunding Prospectus Exemption would impose a $1.5 million limit on the amount that can be raised under the exemption by the issuer, an affiliate of the issuer, and an issuer engaged in a common enterprise with the issuer or with an affiliate of the issuer, during the period commencing 12 months prior to the issuer's current offering. Is $1.5 million an appropriate limit?

Should 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 be subject to the limit?

Is the 12 month period prior to the issuer's current offering an appropriate period of time to which the limit should apply?

We find the maximum raise amount of $1.5 million to be acceptable, but do not see any merit in a timeframe constraint in regard to the limit. A 90 day limit is not realistic, nor is achieving 20% success by 90 days a reasonable cutoff. Startup companies and their capital needs can be extremely unpredictable, both the upside (explosive growth) and downside (underestimated development, marketing, support (and regulatory compliance) costs for new product or service).

It would be acceptable to require a disclosure on use of proceeds related to expense on preparing for and undertaking a subsequent financing round.

This time limit constraint would be problematic for the scenario where an investment fund (if allowed) is able to take advantage of a Crowdfunding Exemption to raise capital for an investment in a portfolio company. This would be particularly advantageous to startups, early stage companies and Incubators or VC funds that focus on seed and early stage financing.

5) Should an issuer be able to extend the length of time a distribution could remain open if subscriptions have not been received for the minimum offering? If so, should this be tied to a minimum percentage of the target offering being achieved?

Yes, should be extendable and reaching 10% of the minimum after 180 days would be acceptable if a number was required.

Restrictions on solicitation and advertising

6) Are the proposed restrictions on general solicitation and advertising appropriate?

The Commission needs to clarify more specifics of what is or is not allowed, particularly when an ideal dual listed EMD and CF portal are operated concurrently for a single issuer.

Investment limits

7) The Crowdfunding Prospectus Exemption would prohibit an investor from investing more than $2,500 in a single investment under the exemption and more than $10,000 in total under the exemption in a calendar year. An accredited investor can invest an unlimited amount in an issuer under the AI Exemption. Should there be separate investment limits for accredited investors who invest through the portal?

This is unworkable for Issuers, unless the Commission clarifies the process for contemporaneous investment by Accredited Investors (including individuals, institutions and investment funds) to participate in the Crowdfunded financing with no investor limits, and without imposing a KYC and suitability obligation on the Portal.(ie a dual registered EMD and CF portal). Startup and SME financing is always achieved around a model of lead sophisticated investor (e.g. prominent angel, VC or institution) creating interest and confidence for follow-on investors to participate. This will not be any different in Crowdfunding campains. Global statistics show that the majority of successful Crowfunding campaigns have 30% of the funds committed by lead investors, before the offering is even advertised to the general public. Getting $1.5 million from 600 separate investors at $2500 per person, is simply not realistic, nor economic for a sole purpose CF portal.

Finally, the maximum amount of $2500 is inconsistent with the OM Exemption and the proposed Title III in the USA. The Commission is prepared to use an income and/or net worth test for the OM Exemption but is hesitant to introduce one here. An alternative approach, given the reduced disclosure requirements of Crowdfunding Issuers, is to raise the maximum to $5000 per offering, or $10,000 per year, regardless of number of offerings the investor participates in.

Finally, we are concerned that the lack of a reporting site for investors to log their $10,000 in CF purchases will encourage abuse, and will the Commission seek penalties from the CF portal, the

issuers or the investors. What are the penalties for exceeding the investments? Is there going to be an age limit, over 16 etc?

Statutory or contractual rights in the event of a misrepresentation

8) The Crowdfunding Prospectus Exemption would require that, if a comparable right were not provided by the securities legislation of the jurisdiction in which the investor resides, the issuer must provide the investor with a contractual right of action for rescission or damages if there is a misrepresentation in any written or other materials made available to the investor (including video). Is this the appropriate standard of liability? What impact would this standard of liability have on the length and complexity of offering documents?

It is up to the issuer and the portal to comply with currently regulatory regimes, which are adequate.

Provision of ongoing disclosure

9) How should the disclosure documents best be made accessible to investors? To whom should the documents be made accessible?

Offering documents should be published online and downloadable. Online disclosure and ongoing communications should be available to all shareholders, not just those who subscribed through a CF portal.

10) Would it be appropriate to require that all non-reporting issuers provide financial statements that are either audited or reviewed by an independent public accounting firm? Are financial statements without this level of assurance adequate for investors? Would an audit or review be too costly for non-reporting issuers?

We believe that reviewed statements are the lowest level of requirement for a cumulative capital raise into an issuer of $750,000. Above that amount the audit should be performed. These apply to non-reporting issuers.

11) The proposed financial threshold to determine whether financial statements are required to be audited is based on the amount of capital raised by the issuer and the amount it has expended. Are these appropriate parameters on which to base the financial reporting requirements? Is the dollar amount specified for each parameter appropriate?

See 10 above

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Other

12) Are there other requirements that should be imposed to protect investors?

Crowdfunding Portal Requirements

General registrant obligations

13) The Crowdfunding Portal Requirements provide that portals will be subject to a minimum net capital requirement of $50,000 and a fidelity bond insurance requirement of at least $50,000. The fidelity bond is

intended to protect against the loss of investor funds if, for example, a portal or any of its officers or directors breach the prohibitions on holding, managing, possessing or otherwise handling investor funds or securities. Are these proposed insurance and minimum net capital amounts appropriate?

This requirement is acceptable. However, we believe that dual EMD and CF portal registrations be permitted with no additional capital requirement. As well, we believe that a holding company structure owning 100% of an EMD and CF should be allowed, with a common CCO permitted and a combined $50,000 minimum working capital requirement (split $25,000 in each).

Additional portal obligations

14) Do you think an international background check should be required to be performed by the portal on issuers, directors, executive officers, promoters and control persons to verify the qualifications, reputation and track record of the parties involved in the offering?

Not required for Canadian resident directors and executives, but unfortunately all other non resident key persons should prompt an international background check and the issuers will need to either provide the results of a check already performed by a Portal in the other jurisdiction (in the case of a cross border syndication), or initiate a new search.

Prohibited activities

15) The Crowdfunding Portal Requirements would allow portal fees to be paid in securities of the issuer so long as the portal's investment in the issuer does not exceed 10%. Is the investment threshold appropriate? In light of the potential conflicts of interest from the portal's ownership of an issuer, should portals be prohibited from receiving fees in the form of securities?

Yes. This ownership limit is appropriate.

16) The Crowdfunding Portal Requirements restrict portals from holding, handling or dealing with client funds. Is this requirement appropriate? How will this impact the portal's business operations? Should alternatives be considered?

The concept is fine but we believe the economics will not work for the CF to have a third party handle all funds in trust. In a dual registered EMD/CF portal, most EMDs do not handle the money at all these days, but those are larger amounts and fewer in number. We anticipate that in a CF portal the number of client receipts will not make the cost of third party trust accounts less expensive over time.

Other

17) Are there other requirements that should be imposed on portals to protect the interests of investors?

No.

18) Will the regulatory framework applicable to portals permit a portal to appropriately carry on business?

We do not believe a standalone CF portal will be economic in Canada and if we start in that direction we are only heading into defeat. We need to be able to enable dual registered EMD and CF portals to achieve true economies of regulatory compliance and larger investor cheque size from accredited investors to offset the cost to issuers and registrants of servicing the mass of CF investors.

Specific requests for comment – Activity fees

1) Are the proposed activity fees appropriate? Do they address the objectives and concerns by which were guided?

The fees are acceptable.

2) Should we consider any other activity fees for exempt market activity?

No.

Specific requests for comment – Proposed Reports

1) Do the changes to the reporting requirements strike an appropriate balance between: (i) the benefits of collecting information that will enhance our understanding of exempt market activity and as a result, facilitate more effective regulatory oversight of the exempt market and inform our decisions about regulatory changes to the exempt market, and (ii) the compliance burden that may result for issuers and underwriters?

The proposed reporting is acceptable. (but add Angel Investor as a check box too).

2) Should any of the information requested through the Proposed Reports not be required to be provided? Is there any alternative or additional information that should be provided that is not referred to in the Proposed Reports?

The only addition we would make, which is also applicable to all other categories of reports, is whether or not an investor would classify themselves as an Angel Investor. The Angel communities are seeking to better identify to the government the breadth and depth of Angel investor involvement in the growth of entrepreneurial companies. Statistics to date about the follow-on investment rate of Angel involved companies indicate that Angel investors are one of the best economic drivers of job creation in the country with the least amount of government subsidy. Having better statistics to follow the activities would be invaluable to all levels of government.

Sincerely,

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