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The Secretary
Ontario Securities Commission
20 Queen St W
22nd Floor
Toronto, Ontario, M8H 3S8
f: 416 593 2318 e: comments@osc.gov.on.ca

RE: RESPONSE TO REQUEST FOR COMMENTS ON PROPOSED PROSPECTUS EXEMPTIONS, PROPOSED MULTILATERAL INSTRUMENT 45-108 CROWDFUNDING COMPANION POLICY 45-108CP CROWDFUNDING

Dear Sir or Madame,

We are writing in response to the request for comment on the above noted proposed instruments. We are writing from the perspective of a Portal that intends to facilitate the crowdfunding of investments for a variety of businesses.

Investment offering size limit: OSC proposes a $1.5M investment offering limit.

We believe the $1.5M investment offering size limit does not provide adequate capital for entrepreneurs to have enough 'staying power' and incur the necessary expenses to successfully launch a business and stay in business.

As a comparative note, Australia has a threshold of A$5M, and in the UK, the threshold is €5M. These jurisdictions have limits significantly more than the $1.5M maximum that the OSC is proposing. 298 prospectuses from 2002-2006 were reviewed by the OSC and the median offering size was $6M. That is 4 times the current proposed limit.

Crowdfunding needs to be a viable option for SME's to raise sufficient capital and if the historical evidence suggests 4x the current proposed offering limits, then there needs to be a clear increase to the proposed offering size limit of $1.5M.

Today's SME's are highly mobile and entrepreneurs that decide to launch their businesses will want to be able to attract capital from a stable and sufficiently large investment market. By limiting the size to $1.5M, this restriction may incentivize entrepreneurs, especially technology entrepreneurs who are essentially borderless, to launch their businesses in other jurisdictions or geographies. Similarly, existing Canadian SME's need to be able to compete in a global marketplace and the ability to raise similar amounts of capital will allow Canadian SME's the same opportunities afforded to SME's operating in other geographies.

An increased investment limit would make Ontario more comparable and competitive with other jurisdictions and make Ontario a more attractive place to raise capital.

We propose that the OSC increase the investment offering limit so that it is significantly higher than $1.5M.

Investment offering annual limit: OSC proposes a maximum $1.5M raised per issuer per year.

We believe that many issuers will not explore crowdfunding as a viable option if they are only able to raise a maximum of $1.5M per annum since this annual limit will discriminate against capital intensive businesses and businesses at different stages of growth.

As a portal, we want to be able to provide investors access to a diverse range of investments and that involves being able to provide financing alternatives to both small *and* medium sized businesses. The annual limit will likely bias the type of businesses that use crowdfunding and the annual amount will limit the range of investment access provided by a portal. By raising the limit on annual amounts that can be raised by a single issuer, the investors will be provided access to a broader range of investments, more businesses can participate in using online crowdfunding, and greater reinvestment can occur in the local economy.

The annual limit should not be equal to the investment offering limit, it should be higher than the investment offering limit since SME's that successfully raise the maximum amount may need to raise another round within a single year. Equating the investment offering size limit with the investment offering annual limit restricts the number of times an issuer can access a good source of financing and this might impact fundraising strategy. For example, some issuers may want to do a phased fundraising campaign for planning purposes or may not want to reveal their growth strategies in the first campaign. Allowing for a larger annual raise will allow issuers the ability to conduct phased fundraising strategies. Or if a particular issuer has multiple businesses, we want investors the ability to access these successful entrepreneurs through their many different entities.

The key benefit of having a crowdfunded business is that this method of raising capital can be cheaper, faster, and more efficient than raising equity capital from other sources. Larger limits will make raising capital cheaper through economies of scale, and therefore lower the cost of capital. With greater scale by raising the annual offering limits, portals can service all types of SME's and provide a greater level of infrastructure and service, supporting the gatekeeper role portals are expected to play.

Perhaps the OSC can re-introduce the Closely Held Issuer Exemption that allows for a $3M offering limit but increase the limit of 35 closely held security holders. Or increase the number of security holders beyond the limit of 50 individuals for the Private Issuer Exemption.

Investment Offering Time Limit: OSC proposes a 90 day time limit for an investment offering.

We believe a 90 day time limit is too short and may even be counterproductive.

Crowdfunding is a new method of raising capital and it is not widely known or used. Success depends on the portal's ability to market the offering. A longer time limit will allow issuers a greater chance of success as it will give them sufficient time to develop and refine a low cost marketing campaign that utilises social networks online. This model of fundraising is untested in Canada so the time limit should allow for continuous improvement by the issuers and portals. 90 days may not allow enough time to sufficiently market the offering but over time, best practices can be developed so as to not lock up investors' capital for too long a duration.

The offering time limit is redundant because issuers can simply re-list a day after their original offering expires, however, it will be burdensome to have to re-market the offering to previous investors. The money will have to be refunded and then funded again which is time consuming and potentially costly relative to the investment amount.

A relatively short time limit might rush retail investors into making their investment decision. We want to give investors the ability to conduct due diligence and research the respective industry – this requires offering time limits greater than 90 days, especially since research on start-ups and SME's is hard to come across. As a portal, we want to be able to facilitate due diligence and networked discussions. We want investors to engage with the online investment community and our view is that 90 days does not afford investors sufficient time to conduct due diligence and have thorough discussions with the issuers.

We propose an offering maximum time limit of 6 months.

Industry Restriction: The OSC proposes that non-reporting Real Estate Issuers be excluded from using the crowdfunding exemption.

Real estate development can be one of the biggest beneficiaries of the crowdfunding exemption and most of these companies are SME's that are non-reporting issuers. The OSC is proposing a rule that has the adverse effect of restricting real estate development companies from utilizing the crowdfunding exemption.

Safety of Investment: From a valuation point of view, real estate is a safer investment relative to start-ups because equity ownership in a project can be tied to ownership in title to the land. Land values are published in publicly available reports, be it through tax assessments or the local land registry office so investors can make better informed decisions. Investing in start-ups is very risky, however, in comparison to investing in real estate development, investors of real estate projects have the security of real tangible collateral backing the investment.

Increased Transparency to the Private Real Estate Market: The real estate industry will benefit through additional transparency provided by a crowdfunding platform or community of investors. Crowd wisdom is based upon the networked sharing of information which creates an environment of transparency and social accountability. Having information on real identities of issuers will keep the information flow honest and accurate because it would be costly to an issuer's reputation to do otherwise. In the current private real estate market, only accredited investors have access to real estate development offerings and very little project information, if any, is ever published online. In a competitive crowdfunding environment, issuers will be incentivized to make more information available since that is what investors will look for before making an investment decision.

Portals can provide additional tools that make investing more informed. Portals and issuers will evolve over time to develop industry best practices but they need the opportunity to be able to take the first leap in utilizing crowdfunding. Portals can provide rankings by quality of disclosure, as an example, which can be an important feature a portal can incorporate into the offerings online, creating an open and honest marketplace before and after an investment is made by investors.

If related party transactions are an issue in the current real estate investment market, then it is an opportunity for portals to create a competitive advantage in the crowdfunding industry by making real estate investing more transparent by improving the reporting / disclosure standards and operating processes in how funds are spent and sent to the issuer. If a portal can develop a competitive advantage in being great gatekeepers, then the investors will continue to use the platform. Thus, portals will innovate to find and source the best investments by issuers who have a good track record, further reducing the risk faced by retail investors.

Having a portal offer an online platform fundamentally changes the way potential investors conduct research and due diligence and receive information in order to assess the riskiness of the investment. It grants them direct access to the provider of information and creates a two-way communication channel where concerns can be discussed and alleviated by the transfer of additional information. This increased transparency should warrant the use of the crowdfunding exemption for all industries and sectors of the economy.

Unlocking capital value: We believe that excluding non-reporting issuers and thus many real estate development SME's from the crowdfunding exemption unfairly eliminates access by unaccredited investors to a large pool of potentially successful investments. The measure of investment sophistication and ability to conduct due diligence does not only come from someone's status as an accredited investor or not. Crowd wisdom is achieved when there are many choices presented and in a competitive offering environment, issuers will race to the top, not to the bottom, and portals will help issuers achieve a greater degree of transparency so that investors make more informed decisions about how and where to invest. To exclude an entire range of SME's would exclude the opportunities for portals and issuers to innovate new ways to deal with current issues in the private real estate market. Transparency, social media, and the efficient sharing of information online will benefit the industry as a whole and promotes entrepreneurship by giving a channel to unlocking capital value in a socially accountable manner.

Many individuals and retail investors already invest directly in real estate and earn an additional source of income from the rent. Crowdfunding allows these individuals to scale up with other investors and make larger acquisitions for that same purpose. By implicitly restricting real estate development SMEs, it potentially restricts investment into the Institutional and Industrial real estate asset class – such as a building expansion to a private day care or private school, the construction of a maternal ward of a hospital or medical treatment facility, the list goes on. We understand that the OSC does not want to restrict use of the crowdfunding exemption by issuers where real estate development is an ancillary activity by the issuer, however, most issuers that do not primarily engage in real estate development do not have the expertise to conduct the work.

Crowdfunding for real estate development can give investors the ability to be an active participant in the creation of their neighborhoods. They can potentially invest in local areas that the investor is familiar with and in projects that can have an added community benefit or building projects that revitalize a community. The spin off effects from building projects that revitalize a community can spur local job creation and be a great engine of growth for the local economy.

<u>Real estate development is also a business:</u> Current industry best practices protect investors and other stakeholders in a development project by having a quantity surveyor or cost consultant monitor transactions. Another typical investor protection measure would be to place the investment funds in escrow or a trust account and be drawn down from the account as the funds are being used for legitimate expenses by the developer. These are some of the many examples of existing best practices already employed in the real estate development industry that protect equity stakeholders. These measures can easily be implemented in crowdfunded real estate projects and ensures that investors are protected. Success in real estate development depends on maintaining a great reputation and creating a successful track record, similar to any other line of business. The crowdfunding model has great promise because the companies that create a great track record and maintain an excellent reputation will be best positioned to succeed using this model. The crowdfunding industry is built upon trust and confidence in the social networks, technology platform, and crowd wisdom. The lack of these three attributes in the current private real estate offering market may be why the OSC experiences the current issues in the offering process and it is these three attributes that seriously mitigate the risk faced by investors.

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We support refunding committed investments if a minimum funding goal is not reached and support the mandatory rescission period of 48 hours.

Confirmation of Acceptance using Online Signature:

The OM exemption and Prospectus exemption should both be allowed to use digital signatures since identity verification can be conducted using online tools and through third party verification of profile information / status.

Co-Registration as an Exempt Market Dealer: OSC commentary on dual registration as an Exempt Market Dealer and as a Portal

It is unclear why it is suggested that a portal cannot co-register as an EMD and as a crowdfunding portal. We understand that a portal must register as a restricted dealer but will the OSC consider additional portal registration requirements? By what criteria will a portal be judged upon for portal registration approval?

Conclusion:

The OSC was formed to figure out ways to protect investor's and to regulate the participants in the securities market, not to exclude an entire industry from participation. Excluding an entire industry such as real estate development from participation is not the best way to protect investors. Overall, crowdfunding is a new and untested way to raise capital in Canada and over-restrictive limits may inhibit a great opportunity for innovation by locally based companies and impedes the jurisdiction's marketability for future business ventures that may look to Canada as a start-up destination.

Sincerely,

Luan Ha
Founder, CEO
Fundscraper Corp.