EQUITY CROWDFUNDING ALLIANCE OF CANADA

VIA E-MAIL

June 25, 2014

Ontario Securities Commission
20 Queen Street West, 22 Floor
Toronto, ON M5H 3S8

Attention: John Stevenson, Secretary
E-mail: comments@osc.gov.on.ca

Dear Sirs and Mesdames:

Re: Proposed Amendments to National Instrument 45-106 *Prospectus and Registration Exemptions*
Companion Policy 45-106CP *Prospectus and Registration Exemptions*
Proposed Amendments to OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions*
Proposed Multilateral Instrument 45-108 *Crowdfunding*
Companion Policy 45-108CP *Crowdfunding*
Proposed Form 45-106F10 *Report of Exempt Distribution for Investment Fund Issuers (Alberta, New Brunswick, Ontario and Saskatchewan)*
Form 45-106F11 *Report of Exempt Distribution For Issuers Other Than Investment Funds (Alberta, New Brunswick, Ontario and Saskatchewan)* (collectively, the Proposed Amendments)

This comment letter is submitted by the Equity Crowdfunding Alliance of Canada (the **ECFA**) in response to the request for comments published by the Ontario Securities Commission (the **OSC**) on March 20, 2014 in connection with the Proposed Amendments.

We thank you for the opportunity to provide you with our comments on these very important capital-raising exemptions in Canada.

About the ECFA

The ECFA was formed in March 2014 as a group of individuals and companies dedicated to developing, guiding and leveraging the emerging equity crowdfunding industry in Canada. The ECFA is Canada's first and only industry association dedicated to equity crowdfunding and to developing a regulated and viable equity crowdfunding framework for all Canadians.

The ECFA's mandate includes:

- educating the public, the media and industry stakeholders about emerging practices involving equity crowdfunding;
- functioning as a unified, national voice to Canadian securities regulators while representing all stakeholders involved in equity crowdfunding;
- guiding issuers, intermediaries, advisors and investors in developing best practices in equity crowdfunding;
- supporting funding portals in complying with applicable Canadian securities laws; and
- working with issuers, funding portals, angel investors, venture capital firms, registered dealers and other capital markets participants in developing a viable equity crowdfunding ecosystem.

The ECFA seeks a proper balance between investor protection and developing a fair, efficient and trusted equity crowdfunding framework for Canada. The ECFA believes Canada must embrace this new form of capital raising otherwise our best and brightest entrepreneurs will go to other jurisdictions where capital raising is easier. This will have a negatively impact our economy, jobs and opportunities for all Canadians.

Information about the ECFA can be found on our website at: **www.ecfacanada.com**.

ECFA comment process

The ECFA has established various committees that have collectively reviewed the Proposed Amendments. The comments below reflect the consolidated opinions, interests and concerns of various issuers, exempt market and restricted dealers, investors (representing angel groups and venture capital firms), along with advisory guidance from securities lawyers and accounting professionals.

ECFA Cross Canada Conference Tour

In order to educate and obtain feedback from various stakeholders involved or interested in equity crowdfunding in Canada, the ECFA held the following full day conferences at the following cities and on dates below:

- Toronto, Ontario – April 24, 2014
- Calgary, Alberta – May 27, 2014
- Vancouver, British Columbia – May 29, 2014
- Ottawa, Ontario – June 2, 2014
- Montreal, Quebec – June 9, 2014

The ECFA greatly appreciates the involvement and participation of the Canadian securities regulators in Ontario, Alberta, British Columbia and Quebec at these ECFA conferences. All the ECFA conferences were well attended and everyone benefited from the information and dialogue about developing a viable equity crowdfunding framework for Canada.

Equity Crowdfunding = Selling Securities on the Internet

The ECFA believes the essence of equity crowdfunding is selling securities on the internet. This involves the Crowdfunding Prospectus Exemption proposed by six provinces and the Start-Up Exemption proposed by five provinces. It also involves exempt market dealers (**EMDs**) selling securities on the internet through existing prospectus exemptions, such as the offering memorandum exemption (the **OM Prospectus Exemption**) under section 2.9 of National Instrument 45-106 – *Prospectus and Registration Exemptions* (**NI 45-106**) and the accredited investor exemption under section 2.3 of NI 45-106.

Accordingly, the ECFA thanks you for the opportunity to provide you with our views on the Proposed Amendments in particular, those involving Ontario's proposed OM Prospectus Exemption and those involving equity Crowdfunding under Multilateral Instrument 45-108 – *Crowdfunding* (**NI 45-108**).

Context for ECFA Comment

The responses to the ECFAs comments below include certain recurring themes such as:

- advocating for a fully-regulated, fair, and effective equity crowdfunding framework in Canada;
- ensuring issuers have access to the largest pool of qualified investors by allowing accredited and non-accredited investors to participate in private offerings;
- establishing consistent (harmonized) rules across various jurisdictions in Canada, wherever possible;
- minimizing compliance costs to issuers, in particular small and medium-sized issuers (SMEs); and
- avoiding new securities regulations, if other laws and regulations (e.g., those under corporate laws in Canada) already provide for shareholder disclosure and other protections.

ECFA'S COMMENTS ON THE PROPOSED AMENDMENTS

OM PROSPECTUS EXEMPTION

General

The ECFA is encouraged by the OSC's willingness to consider and embrace new capital raising exemptions at a time when Ontario is experiencing not just a start-up and SME funding gap but more specifically, a prospectus exemption gap, since there are insufficient prospectus exemptions available in the Province, as compared to other Canadian jurisdictions.

We appreciate the tremendous effort the OSC has put into seeking feedback and dedicating significant resources to help Ontario's eco-system of capital raising by considering new prospectus exemption.

Notwithstanding the foregoing, the ECFA strongly believes that the Canadian Securities Administrators (the **CSA**) need to accelerate the adoption of a fully harmonized set of securities regulations across the country. This is currently a significant barrier to capital raising in Canada and a tremendous burden on issuers from a cost of capital perspective.

Canada's varied regulatory rules, in a multi-jurisdictional environment, makes our Canadian capital markets significantly more complex and costly, especially for SMEs, in comparison to other jurisdictions. We ask that you take this into consideration while you consider how you will work with other CSA members.

* * *

Below are our responses to the questions you have asked. We have reproduced the questions for ease of reference.

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

(a) The ECFA does not believe that the proposed changes to the OM Prospectus Exemption will significantly increase the use of the OM Prospectus Exemption by start-ups and SMEs. The cost of preparing the OM offering documentation and required audited financials, as experienced in other jurisdictions, is too prohibitive for small, early stage companies. The ECFA is supportive of CSA members adopting the Start-Up

Exemption being considered by five CSA members, in support of which we have submitted our comment letters, and encourage the OSC to review the results of those comment letter processes. Although we would generally support the OSC introducing the Start-Up Exemption in Ontario, we strongly disagree with an aspect of the current proposals, where portals relying on the Start-up Exemption would not be regulated. The ECFA firmly believes all funding portals must be registered, and in the same manner that the OSC proposes to regulate funding portals under MI 45-108.

(b) The OSC can make the OM Prospectus Exemption significantly more useful as a financing tool by providing smaller issuers with exemptive relief from the audited financial statements for smaller financings (*i.e.*, less than $ 1 million) as certain CSA members did in December 2012 when they published Multilateral CSA Notice 45-311 *Exemptions from Certain Financial Statement-Related Requirements in the Offering Memorandum Exemption to Facilitate Access to Capital by Small Businesses*.

Each CSA member (other than British Columbia who wanted to study it further and Ontario which does not have the OM Prospectus Exemption) issued a harmonized interim local order (the **Blanket Orders**) that provides relief from the audited financial statement requirement and the requirement for issuers to prepare financial statements using Canadian GAAP applicable to publicly accountable enterprises provided that:

i. the issuer and related issuers raise no more than $500,000;

ii. no investor invests more than $2,000 in any 12-month period;

iii. the issuer is not a reporting issuer, investment fund, mortgage investment entity or real estate issuer;

iv. the issuer does not distribute complex securities; and

v. the offering memorandum (the OM) contains a bold warning on the front page.

The ECFA submits that the OSC should include the exemptive relief set out in the Blanket Orders as part of the OM Prospectus Exemption instead of requiring issuers to seek exemptive relief in the Province, since such exemptive relief has been provided, and has improved the usefulness of the OM Prospectus Exemption in those jurisdictions that have already adopted it. Moreover, the ECFA believes the minimum threshold for when an audit is required, should be increased from $500,000 to $1 million.

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. (a) Should we impose a cap or limit on the amount that a non-reporting issuer can raise under the exemption? (b) 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?

(a) No, the OSC should not impose a cap or limit on the amount that a non-reporting issuer can raise under the OM Prospectus Exemption. Many issuers, including SMEs, do not want to go public for various reasons and would prefer to raise capital under the OM Prospectus Exemption and not under a prospectus, given the inherent costs associated with preparing and filing a prospectus, as well as the ongoing reporting requirements.

We note that the OM Prospectus Exemption is not typically used for start-up and early stage financings. The amount of capital required for growth and expansion capital vary widely by industry sector, stage of development and business strategy. Indeed, the cost of compliance with relying on the OM Prospectus Exemption is significant. To impose caps would further dissuade issuers from relying on it.

(b) The OM Prospectus Exemption has been used extensively in Western Canada, in multiple industries by issuers at various stages of development and offering sizes, with no limits on capital raised and Ontario should follow the same approach. Accordingly, we agree with the OSC's proposal that there should be no issuer caps and no limits on the number of times an issue can utilize the OM Prospectus Exemption, in any time-frame.

3) a) What type of issuer is most likely to use the OM Prospectus Exemption to raise capital? (b) 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?

(a) Any type of issuer should be able to use the OM Prospectus Exemption and its use or non-use by certain issuers and/or sectors may be attributed to a number of factors. For example, certain sectors, such as real estate, may use the OM Prospectus Exemption more frequently than other sectors since dealers are more inclined to sell a security that provides investors with regular distributions than a technology or manufacturing issuer that provides no distributions and is a pure equity investment

opportunity. Dealers sell securities that investors want and the use or non-use of the OM Prospectus Exemption may be more of a reflection of such dynamics. As well, a lack of knowledge of the OM Prospectus Exemption availability and the cost of preparing an OM may dissuade certain types of issuers from using the OM Prospectus Exemption.

As stated in #1 above, we do not believe that start-ups will use the OM Prospectus Exemption since the cost of compliance is significant. In order to improve access to capital for SMEs, we believe the OSC should include the exemptive relief set out in the Blanket Order, as part of the proposed OM Prospectus Exemption and also consider adopting the Start-Up Exemption provided that the funding portals are regulated and in a manner similar to the way the OSC contemplates regulating funding portals under proposed MI 45-108.

(b) Yes, the OSC should vary the disclosure requirements of the OM Prospectus Exemption to be tailored to a particular issuer's industry. Different industry sectors would absolutely benefit from additional rules and guidance by the OSC on specific disclosure requirements for certain industries or securities.

For example, when real estate is sold with a management contract where an investor receives regular distributions, such arrangements are typically viewed as an investment contract which is a type of security. Alberta, for example, has tailored disclosure in such instances for what are called real estate securities. We believe the OSC, the ASC and other CSA members should update and review such disclosure and provide uniform disclosure requirements for real estate securities. We also believe additional rules and guidance should be provided for mining, real estate development, early stage and other types of issuers.

Additionally, disclosure guidelines are needed where a topco raises capital under a trust or corporate vehicle which then provides these proceeds to an operating company in exchange for debt and/or equity in bottomco. Additional guidance is required for these indirect offering structures in the private capital markets.

OM disclosure is about the exercise of judgment in what information is required to be included in an OM and what is not. We find that different CSA members have different views on the length and quality of disclosure, which also differs between the corporate finance/investment fund groups within a given CSA member and their respective enforcement branches. Issuers and professionals are in urgent need of additional OM disclosure guidance from the CSA, including the OSC, since no issuer wants to receive a cease trade order for inadequate disclosure and be required to offer investors rescission rights if the issuer wants to sell securities again.

Caveat – Notwithstanding the foregoing, the OSC should not delay implementing the OM Prospectus Exemption in the interest of developing these industry-specific disclosure requirements.

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?

The ECFA recognizes that the OM Prospectus Exemption introduces a new way to raise capital in Ontario and there will be a learning curve for both Ontario issuers and the OSC, but improved access to capital is critical for SMEs as well as growth/expansion stage issuers. Accordingly, the ECFA recommends against delaying Ontario's adoption of the OM Prospectus Exemption and providing more industry-specific (sector) disclosure guidance in phase two of the Exempt Market Review.

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?

Subject to our response in question 6 below, the ECFA agrees with the OSC's approach 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.

However, for greater certainty the ECFA would like to ensure that the OSC does not specifically restrict convertible securities (e.g., convertible debentures), conventional warrants and rights and special warrants, which are used extensively by SMEs raising capital and relying on existing prospectus exemptions. In start-up and early stage financing, convertible securities and warrants are commonly used to defer complex valuation issues (e.g., during seed stage or angel-led financings, bridge financings, etc.) or to "sweeten" the opportunity for early-stage investors that participate in 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?

The ECFA believes that any restriction on security types that can be distributed under the OM Prospectus Exemption only serves to reduce the potential value and use of the OM Prospectus Exemption for issuers, and limits access to capital. Experience in Western Canada is that most private offerings that rely on the OM Prospectus Exemption are fairly straightforward. We would suggest one of two possible approaches by the OSC on this issue:

(a) restrict derivatives and structured finance products initially, but give further consideration to these securities types in phase two of the Exempt Market Review, or

(b) the ECFA would prefer that the OSC allow them (consistent with Alberta, British Columbia and other jurisdictions) and provide further guidance on specific disclosure requirements in the second phase of the Exempt Market Review, if issues arise.

The ECFA believes it is reasonable to assume that any offering of complex securities will be developed with support from qualified securities legal counsel. Regardless, issuers will be required to prepare a compliant OM.

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? (a) How long does an OM distribution need to stay open? (b) Is there a risk that "stale-dated" disclosure will be provided to investors?

(a) The ECFA agrees with the OSC that restricting the length of time that an OM can remain open is not necessary. An issuer in continuous distribution is different than an issuer that seeks a one-time capital raise. Imposing fixed distribution periods does not allow the time flexibility that is required by certain types of issuers and offerings. The key concern should be that the OM does not contain a misrepresentation.

(b) There is always a risk that an issuer will not update information in an OM while in distribution, although it is required as a matter of law. As you know, an OM cannot contain a misrepresentation. There is already an obligation under NI 45-106CP to update an OM if there has been a material change in the business of the issuer after

delivery of an OM and before an issuer accepts the agreement to purchase securities. There is also a requirement that financial statements cannot be stale-dated. For example, if a distribution is ongoing, an OM must contain updated audited financial statements in its OM that are no later than the 120th day following the financial year-end of an issuer.

Accordingly, the ECFA believes that no change is required to impose a distribution period in order to ensure an OM does not contain a misrepresentation since it is already required under applicable securities law.

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?

The ECFA does not agree with the OSC's proposal to prohibit registrants that are "related" to an issuer from participating in an OM distribution. The equity crowdfunding industry is nascent. The business models and innovative capital formation vehicles (*e.g.*, pooled angel syndicates) are only just emerging. Having to contract the services of a non-related EMD to undertake a financing transaction will simply increase the cost of capital for issuers who want to distribute their own securities, or unduly restrict capital raising.

Furthermore, there are clear signs in the USA and other jurisdictions that the roles of venture capital (**VC**) firms, angel networks and non-accredited investors in the start-up and SME segment of the private capital markets are starting to converge, especially with the advent of equity crowdfunding. A number of equity crowdfunding portals in the UK and USA are associating themselves with, and starting to leverage fund managers and associated structures (*e.g.*, VC, private equity or angel syndicates). It is easy to imagine either:

(a) an EMD that wants to establish, own and operate a related or connected venture fund, to participate in private offerings that they are otherwise marketing to the general public, under the OM Prospectus Exemption; or

(b) a VC that wants to use the OM Prospectus Exemption to raise money for a specific SME financing transaction, while making the investment opportunity available to both accredited and non-accredited investors, through a VC owned and registered portal.

The EFCA believes that the KYC, KYP and suitability obligations of registered dealers are well defined under applicable securities law and that registrants must comply with existing regulations, such as NI 33-105, even if related to the issuer, thus providing adequate investor protection through disclosure of the relationship between the registrant and the issuer.

Registrants must constantly balance the best interests of the issuer, investor and their businesses and are capable of managing any relationship with the issuer and inherent risks through disclosure.

Other factors that the OSC should consider before banning related issuers are as follows:

(a) there are many companies in the financial services sector that already sell related products to their customers such as banks, insurance companies, and mutual fund companies. This is not just an OM Prospectus Exemption issue;

(b) by allowing issuers to take advantage of their own distribution networks to raise capital, an issuer is better able to balance the dealing representative commission incentive, with cost of capital to the issuer;

(c) by having the issuer as a registrant, the trades will be required to pass the same scrutiny for KYC, KYP and suitability as through any other registrant;

(d) issuers are currently able to do a non-brokered private placement, where these investor protections are circumvented; and

(e) an important element of equity crowdfunding involves the "crowd" policing the bad issuers, offerings and principals, the so called bad actors, through social media, blogs and forums.

Therefore, the ECFA recommends that the regulations here be focused on disclosure of related party transactions as opposed to prohibiting them.

9) Concerns have been raised about the role of unregistered finders in identifying investors of securities. (a) 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? (b) What role do finders play in the exempt market? (c) What purposes do these commissions or fees serve and what are the risks associated with permitting them? (d) If we restrict these commissions or fees, what impact would that have on capital raising?

(a) No, the OSC should not prohibit the payment of a commission or finder's fee to any person, other than a registered dealer, in connection with a distribution.

(b) In challenging capital markets such as today, issuers want as many people as possible looking for qualified investors. Today, finders refer interested and qualified investors to either an issuer or a registrant. The role of finders should be encouraged in the capital markets in order to incent individuals and others to locate investors provided that a finder's activities do not trigger registration under applicable securities laws. With that in mind, the ECFA believes the OSC should provide additional guidance on when the activities of a finder may trigger registration, such as, how many referrals a finder can make or aggregate consideration a finder can receive before they are considered to be "in the business of" trading securities. Moreover, the OSC may consider developing the concept of a "registered finder" that permits only a very narrow set of activities by finders that would not trigger registration, as some States have done in the USA.

(c) Commission and fees serve to incent an individual or entity to refer an investor to an issuer or registrant, otherwise they may be less inclined to provide a referral. The obvious risk of permitting finders is that their activities amount to being "in the business" of trading securities and such finders engage in registerable activities while not being registered.

(d) If the OSC restricts commissions or fees to finders it will have a direct and immediate negative impact on capital raising.

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.

(a) Do you agree with excluding the value of the investor's primary residence from the net asset test? (b) Do you agree with lowering the threshold as proposed?

(a) No, the ECFA believes that a net asset amount should not exclude the value of the principal residence for individual investors when considering the eligible investor test. The commentary within the proposed amendments to the OM Prospectus Exemption published on March 20, 2014 by Alberta , Quebec, New Brunswick and Saskatchewan states that "if investors are qualifying as "eligible investors" based on a net asset test, there are very few who could do so without including their principal residence" (based on Statistics Canada data).

As this commentary further states, "excluding an investor's principal residence may treat investors with similar net worth differently depending upon the types of assets they choose to hold". In other words, an investor could structure their affairs by taking their home equity out of their principal residence and acquiring an asset or security wherein it could then be included as part their net assets for purposes of the eligible investor test.

Many Canadians look to the equity of their homes as part of their savings and whether in the form of stocks, bonds or home equity, the ECFA believes it should be included in the net asset test under the definition on an eligible investor.

In the absence of any evidence and for the sake of harmonization, the ECFA believes that the principal residence of an investor should remain included within the definition of net assets.

(b) We do not believe the threshold should be lowered as proposed since we believe the principal residence of an investor should be included in the net asset test for purposes of the eligible investor test.

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

(a) Yes, the ECFA agrees with the concept of an eligibility advisor, but believes it needs to be expanded to include EMDs.

(b) In many cases, an EMD would be a more appropriate person, given their specialized expertise in exempt products, to provide suitability advice, as compared to an investment dealer. Moreover, it is unlikely that an investment dealer would provide such advice to an investor unless they were leading or involved through syndication in the exempt offering. The time, money and effort for an investment dealer to undertake KYP, KYC and suitability would arguably not be worth the consideration it would receive for providing suitability advice.

Investment Limits

12) (a) 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. (b) Are the proposed investment limits appropriate?

(a) No, the ECFA does not support the investment limits. The ECFA believes that eligible investors should not be subject to investment limits when an offering is distributed through a registered investment dealer or an exempt market dealer (EMD), since such dealers, as registrants, have certain legal obligations under applicable securities law to ensure that an investment is suitable for the investor.

An investor's income and asset test is only a small component of making a suitability assessment. There are many other factors to consider in determining whether an investment is suitable including, but not limited to, an investor's age, investment needs, investment time horizon and risk tolerance. Moreover, there is a significant difference between an eligible investor's needs who makes $75,000 per annum and an eligible investor's needs who makes $199,999.99 per annum (a penny more and he/she would be an accredited investor).

For example, an investment of less than $30,000 may be suitable for an investor who qualifies as an eligible investor at the low end of the income range under the income test while extremely limiting for an investor who qualifies as an eligible investor at the high end of the income range under the proposed income test. Specifically, an investor who qualifies as an eligible investor at the high end of the income range may actually be able to invest a lot more than $30,000 and such an investment may be completely suitable. Simply, the ECFA believes treating all eligible investors as a homogenous cohort is not in the public interest.

(b) The ECFA does not believe that the investment limits are appropriate, when a registered investment dealer, or exempt market dealer is involved in the distribution of securities under the OM Prospectus Exemption.

The ECFA has no issue if a distribution under an OM Prospectus Exemption imposes investment limits on an issuer if a registrant is not involved since it has no suitability obligations. In fact, issuers should be encouraged, when a certain amount of money is being raised (*i.e.,* over the investment cap), to work with a registered dealer. Simply, the OSC should trust registered dealers to act accordingly with suitability assessments and let the investors and dealers decide the right level of investment.

Point of 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?

Yes, the ECFA believes that blind pool issuers would use the OM Prospectus Exemption. Disclosure guidance specific to a blind pool offering would be useful to investors and cost effective for issuers, similar to the standard disclosure requirements for capital pool companies under the TSX Venture's CPC program.

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?

The ECFA believes the current form is adequate. More prescriptive guidance, resulting from a subsequent review phase, addressing specific industry concerns (*e.g.,* real estate) and additional disclosure, would be useful.

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?

Yes, we agree with the requirement that marketing materials be incorporated by reference into the OM and resulting liability.

However, ECFA believes that industry requires further guidance from the OSC as to what specifically constitutes an issuers marketing materials, beyond the offering document, and a related investor presentation. We are concerned if this is intended to include general corporate, product, competitive and market information that might be contained on an issuer's website, blog, published white papers, etc. When it comes to product or service capabilities, industry trends, market size and growth, etc., historical content visible on an issuer's web site, in artifacts from public events (e.g., tradeshows and conferences) or in other "publicly available" documents could easily be, and probably would be, inconsistent with current disclosures in an OM offering document.

It would be cost prohibitive to undertake the legal review necessary to ensure that all publicly "visible" information on an issuer's website, current and historic is consistent with an OM.

Ongoing Information Available to Investors

16) (a) 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?(b) 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? (c) If the aggregate amount raised is $500,000 or less, is a review of financial statements adequate?

(a) Generally, the ECFA has no objection to some form of ongoing disclosure for issuers that have used the OM Prospectus Exemption, such as the proposed requirement for annual financial statements. However, circumstances may arise where, due to exigent circumstances, an issuer cannot provide such ongoing disclosure. In such circumstances, the ECFA believes some form of relief should be provided by the OSC and other CSA members that adopt an ongoing disclosure requirement for issuers that raise capital under the OM Prospectus Exemption.

(b) As per our response to Question #1, we believe that annual financial statements should be audited, on an ongoing basis, if an issuer has raised more than a $1 million, subject to exigent circumstances discussed in our response to Question 16(a).

(c) The ECFA believes that review engagement financial statements are adequate for amounts raised by an issuer under any prospectus exemption in excess of $500,000, but less than $1 million.

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?

Yes, the ECFA agrees with this requirement but believe the time period to provide such specified event disclosure should be 20 days not 10 days following the specified event. We encourage such ongoing disclosure provided that the OSC and the CSA consider adopting a form of secondary market trading in the private capital markets. We submit that this can be considered in phase two of the Exempt Market Review.

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

No, we are satisfied with the proposed disclosure requirements.

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. (a) Do you agree that a non-reporting issuer should continue to provide ongoing disclosure until either of these events occurs? (b) Are there other events that would warrant expiration of the disclosure requirements?

(a) Yes. The ECFA believes this requirement is acceptable.

(b) No. There are no other events that would warrant expiration of this requirement.

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?

The ECFA has no objection to the collection of such information.

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?

The ECFA has the same concerns with the proposed exclusion of convertible debt, warrants and special warrants and limited partnership units, as described under the OM Prospectus Exemption (refer to Question 5, regarding our OM Prospectus Exemption comments).

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. The ECFA does not believe there should be an overall limit on the amount of capital that can be raised by an issuer under the FFBA Prospectus Exemption.

Investor Qualifications

3) (a) 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"? (b) Is there other guidance that could be provided regarding the meaning of these terms?

(a) Yes, we agree with the revised guidance, but are concerned that the other CSA members do not agree. If the OSC adopts the proposed guidance, it should clarify whether there is anything in the guidance that another CSA member may not necessarily agree with. It would not be in the public interest for an issuer to rely on and satisfy the definition of a "close personal friend" and "close business associate" in one jurisdiction and to find out afterwards that another CSA member has a different interpretation.

(b) No, we are not aware of any further guidance that can be provided regarding the meaning of the terms. However, these are subjective tests and there is a concern that the OSC or another CSA member could impose its interpretation on issuer and/or investor. It would be helpful if the OSC and other CSA members clarified when enforcement action would be taken against an issuer and a registrant in the event that they got it wrong.

Investor 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, the ECFA does not believe there 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.

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?

Yes, the ECFA believes that a risk acknowledgement form mitigates against potential risks associated with improper reliance on the FFBA Prospectus Exemption and the proposed 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?

Yes, the ECFA believes that collecting this information is appropriate.

EXISTING SECURITY HOLDER PROSPECTUS EXEMPTION

General Comments

It is discouraging that the OSC is considering adopting an existing security holder exemption that is not identical to the equivalent exemption adopted throughout the rest of Canada. This exemption should be available nationally and equally to all Canadian reporting issuers and investors regardless of their location. Inconsistent regulation ultimately creates unnecessary friction, regulatory and investor confusion, and increased compliance costs.

The OSC should review public comment letters received in response to the other provinces and territories request for comment to the existing security holder exemption. The majority of these response letters were overwhelmingly in support of the proposed exemption. The form of the exemption adopted in these provinces and territories reflects the considered views of these various CSA members and a wide sector of the market as represented by the comment letter writers. The OSC should not ignore these views and adopt a version of the

existing security holder exemption that differs in any respect to that adopted in all of the other CSA members.

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, all reporting issuers have the same continuous disclosure requirements under Canadian securities laws and should be treated equally. We see no reason to distinguish TSXV issuers and venture issuers listed on other exchanges for the purpose of eligibility to use the Existing Security Holder Prospectus Exemption.

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?

No, the ECFA believes that the cost of administering a pro rata rights offering is cost prohibitive to small issuers.

There is no requirement that an issuer make the offer on a *pro rata* basis under the existing security holder exemption adopted in all of the other provinces and territories in Canada. Ontario should not impose a requirement that differs and potentially puts Ontario-based issuers and investors at a disadvantage or otherwise makes the exemption unattractive.

The requirement to offer securities on a pro rata basis is one of the reasons reporting issuers do not use the existing rights offering exemption in Canada. Issuers when offering securities on a *pro rata* basis must contact each shareholder by first contacting their transfer agent to do a broker search for objecting and non-objecting beneficial shareholders as of the record date for the offering. They then need to mail-out of a notice regarding the offering to registered shareholders and to intermediaries for delivery to the underlying beneficial shareholders and then wait a reasonable time for response. This entails considerable time and added cost. In addition, it is false sense of fair treatment as objecting shareholders will not receive the offer eliminating any true *pro rata* offer to all the shareholders of an issuer.

The existing rule adopted by the other CSA members requires investors to self-identify after seeing the press release, which streamlines the process. Issuers in their press release are to describe how they intend to allocate securities if aggregate subscriptions for securities under the proposed distribution exceed the maximum number of securities proposed to be distributed. Applicable stock exchange rules concerning private placements also provide

issuers guidance and require shareholder approval if a private placement will cause a new control person or if the private placement involves a related party transaction. A *pro rata* requirement adds very little in terms of fair treatment for the added cost, time, and complication.

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, the ECFA agrees that this differentiation is not necessary.

Resale Restrictions

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

No, the ECFA believes that a four-month hold period should apply to securities distributed under the Existing Security Holder Prospectus Exemption. Imposing a four-month hold period is consistent with the hold-period that applies to other available prospectus exemptions under NI 45-206, such as the accredited investor exemption.

CROWDFUNDING PROSPECTUS EXEMPTION

Issuer Qualification Criteria

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

No, the ECFA feels strongly that the Crowdfunding Prospectus Exemption 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, the ECFA believes that real estate is a premier asset class to leverage the benefits of equity crowdfunding, for both investors and issuers for the reasons set out below:

(a) real estate investment is not modeled on boom-bust scenarios like many other asset classes. There are many profitable real estate investments that provide steady yield and cash flow to investors while not relying on speculation or market appreciation

to provide returns. Moreover, private real estate is highly uncorrelated to the public markets and therefore provides an alternative and important cash flowing asset class for yield-hungry investors;

(b) Investors can be educated on how real estate is valuated. Expenses and budgets can be accurately projected up front so that investors are made aware of the projected costs and revenues before subscribing to an investment;

(c) Many investors understand real estate and want to invest in their communities;

(d) Many investors do not have the time, experience or capital to invest in a real estate project on their own. However, if allowed to invest through the Crowdfunding Prospectus Exemption, they can invest a small amount that forms a part of their individual portfolio while partnering with an experienced real estate developer/property manager to operate the asset;

(e) Real estate investments create jobs for local small and medium enterprises (**SMEs**). For example, a single $1.5M equity crowdfunding investment can support a real estate development of $5M with the use of a typical real estate mortgage. This project would be injecting roughly $1.5M into labour costs in the local economy, as well as $500k to professional trades. Another $600k would be transferred to the local municipality through development fees as well as $200k to the local utilities. A single project could create over 30 full time jobs at an annual salary of $60,000. To suggest that equity crowdfunding should exclude real estate as an entire asset class since it does not help SMEs is simply incorrect; and

(f) We understand there are concerns about potential conflicts of interest between a crowdfunding portal that raises capital for real estate projects where it has a material interest (i.e., where the issuer and owner of a project is a related issuer of the portal). The ECFA believes that these concerns can be adequately addressed through detailed and responsible disclosure requirements and additional safeguards and would be pleased to work with the OSC to address these concerns once we understand exactly what they are. We respectfully submit that the exclusion of real estate and the related rationale was not fully developed by the OSC in order to allow us to provide a meaningful response.

Based on the foregoing, the ECFA opposes the proposed exclusion of real estate from the Crowdfunding Prospectus Exemption and, in particular, believes that income producing real estate is an important and viable asset class for investors and should not be ignored let alone prohibited by the OSC.

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?

Generally, this sort of requirement is contrary to the borderless nature of online (e-commerce) business. The Canadian start-up and SME community are in fierce competition for talent, markets and capital with US and international companies. If the Crowdfunding Prospectus Exemption for Issuers is too restrictive, Canadian entrepreneurs will simply bypass the Canadian capital markets. This not a restriction under any other existing private capital markets prospectus exemption.

Restricting board makeup to be a majority of Canadian residents is a serious barrier to Canadian entrepreneurs building the right team (which includes the board of directors) to compete on a global scale. The proposed regulation is a serious concern to the ECFA. SMEs have a hard enough time attracting great management and board members without putting geographic constraints on the issuer, in this regard.

Similarly, limiting the use of the Crowdfunding Prospectus Exemption to Canadian domiciled companies severely undermines the market opportunity for Canadian-based equity crowdfunding portals to survive and flourish in this burgeoning new global business model. As long as the proper cross-border documents are filed with US and Canadian securities regulators, and an issuer has a registered business location in Canada, there should be no restriction on US companies using the Crowdfunding Prospectus Exemption.

Finally, an equally important consideration in the equity crowdfunding movement is allowing the general public to participate in the next Apple, Google, Facebook or Twitter. By limiting US start-ups from accessing the Canadian capital markets (which is what this proposed restriction effectively does) we are limiting the Canadian public's opportunity to participate as an investor in "the next big thing". 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. (a) Is $1.5 million an appropriate limit? (b) 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?

(a) Yes, $1.5 million is an appropriate limit.

(b) Yes, the 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 should be subject to the limit.

(c) Yes, the 12 month period prior to the issuer's current offering is an appropriate period of time to which the limit should apply.

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, the ECFA believes that in many cases 90 days may not be sufficient time to close a crowdfunding transaction. If the concern is that information becomes stale if the offering is open for too long, then we suggest the offering be allowed to remain open for a further 90 day period if 20% of the offering has been raised and the information is still accurate, or it is updated to change stale dated financials or material changes.

Restrictions on Solicitation and Advertising

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

Yes, the ECFA believes the proposed restrictions on general solicitation are appropriate.

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?

The ECFA believes that in the absence of any income or net worth tests to determine eligible or accredited investor status, the proposed funding caps are too low and will make it extremely difficult for issuers to complete a $1.5 million fundraising under the proposed Crowdfunding Prospectus Exemption. For example, it would take 600 investors each investing $2,500, to raise $1.5 million. This base of investor support is impossible for start-up and early stage companies to achieve.

The ECFA submits that the OSC should increase the investment limit from $2,500 to $5,000 for non-eligible investors, and also consider allowing the non-eligible investors to "top up" the amount invested in a single offering, to the $10,000 calendar year maximum.

We further submit that the crowdfunding investment limits should be relaxed for accredited investors who invest through an equity crowdfunding portal. A relaxed limit would:

(a) allow issuers to more easily achieve their financing goals by having funding portals attract accredited investors and establish a certain amount of confidence in their offering by having an accredited investor invest a larger sum of money, as a so called "lead investor"; and

(b) permit equity crowdfunding portals to be fairly compensated in relation to the distribution of securities to an accredited investor. For example, an accredited investor having sourced the transaction on the portal, but faced with an investment limit, could otherwise directly approach the issuer for the purchase of its securities under an AI Prospectus Exemption and thereby bypass the equity crowdfunding portal.

Notwithstanding the foregoing, we suggest that limits should be removed or increased for accredited investors participating through a funding portal, under the Crowdfunding Prospectus Exemption, without introducing suitability obligations for the portal. While we do not have a specific recommendation as to the limit to be imposed for an accredited investor, such a limit should take into account:

(a) the level of sophistication of these investors (as compared to the general public); and

(b) their ability to purchase an unlimited amount of securities directly from an issuer.

Based on the foregoing, we submit that a precedent has been set in Ontario with the exemptive relief order received by MaRS VX which establishes a $25,000 limit for accredited investors, with a corresponding obligation to verify an investor's status as an accredited investor and without having any obligation to determine whether such an investment is suitable for that accredited investor.

Alternatively we also refer you to our answer to question 18 below, which recommends that a registered dealer should be able to raise capital for issuers under the Crowdfunding Prospectus Exemption and raise an unlimited amount of money from an accredited investor, provided that the registered dealer complies with applicable securities law including its obligation to ensure an investment is suitable.

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). (a) Is this the appropriate standard of liability? (b) What impact would this standard of liability have on the length and complexity of offering documents?

(a) No, this is not the appropriate standard of liability. The ECFA believes that an issuer and a portal must comply with applicable regulatory regimes in the different CSA jurisdictions. Conflicts of law or variations among laws in different jurisdictions is not an appropriate rationale for imposing contractual terms on parties when they are not required for any other prospectus exemption. Each CSA member impose or does not impose statutory rights of action and the ECFA believes having a Crowdfunding Prospectus Exemption should not change the status quo unless it is changed for all prospectus exemptions.

(b) Detailed rights of action that often vary by jurisdiction or must be provided contractually will significantly increase the length and complexity of offering documents. These disclosure documents are often long and confusing. It is also not clear how such information is to be included or incorporated by reference into an offering that relies on the Crowdfunding Prospectus Exemption (*e.g.*, in a video on the portal) when providing such rights more easily lends itself for its inclusion in an offering document.

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 and can be password protected to protect an issuer's confidential information.

10) (a) 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? (b) Are financial statements without this level of assurance adequate for investors? (c) Would an audit or review be too costly for non-reporting issuers?

(a) The ECFA believes that financial statements are essential for the purposes of determining the financial health and historical performance of an issuer. However, the ECFA also believes that a requirement for all non-reporting issuers to provide financial statements that are audited or reviewed by an independent public accounting firm as unwarranted and too costly for many SMEs, unless they have raised in excess of a certain amount of capital.

The proposed Crowdfunding Prospectus Exemption provides that an issuer that has raised in excess of $500,000 and expended more than $150,000 is required to have audited financial statements. The ECFA submits that a review engagement should be required if either proposed thresholds are triggered, and that an audit requirement only be imposed when $1 million, or more has been raised by an issuer and/or it has expended more than $500,000 since inception. The ECFA believes the current review engagement and audit triggering thresholds are too low.

(b) In a perfect world, audited financial statements would obviously be preferred by investors. However, not all start-ups and SMEs can afford audited financial statements. ECFA submits that investor protection and the level of assurance of financial statements must be balanced against the amount of capital raised and an issuer's financial ability to provide financial statements with a higher level of assurance.

(c) An audit or review would be too costly for many start-ups and should only apply after an issuer has raised and expended a certain amount of money. See also our answer in 10(a) above for our proposed revised thresholds.

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?

No. The ECFA believes the threshold amounts in the proposed Crowdfunding Prospectus Exemption are too low. See above response under question 10 above.

Other

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

No, the ECFA believes that the proposed mechanisms relating to investor protection are adequate.

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?

Yes, the ECFA believes that the proposed requirements are acceptable and consistent with industry standards.

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?

The process involved in conducting an international background check varies widely depending on the applicable jurisdiction (as does the legislation governing privacy law). It could cost thousands of dollars per search, depending on the jurisdiction. Furthermore,

translation considerations and the time involved in obtaining credible results may hinder the ability of an issuer to proceed with an offering in a timely manner. For these reasons, the ECFA believes that the obligation to conduct international background checks on the insiders of an issuer would be a complex, burdensome and a costly requirement for both portals and issuers.

The ECFA believes the OSC should provide additional guidance on what work needs to be done for an international background check. The OSC should consult with those service providers that currently provide such international background checks for potential directors who seek to be on the board of an issuer listed on a stock exchange. The OSC needs to balance the costs for these international background checks with the need to protect investor from individuals who are bad actors.

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%. (a) Is the investment threshold appropriate? (b) 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?

(a) The ECFA believes that the 10% ownership limit for a portal in an issuer is acceptable. ECFA believes any conflicts of interest in obtaining such an equity interest in an issuer is adequately addressed under the Crowdfunding Prospectus Exemption since a portal is prohibited from:

i. providing specific recommendations or advice to investors about specific securities;

ii. soliciting purchases or sales of securities offered on its platform (other than through posting an offering on its platform); and

iii. compensating employees or agents to solicit the sale of securities on their platform, the ECFA does not believe that portals should be prohibited from receiving fees in the form of securities.

(b) No, a portal should not be prohibited from receiving securities as compensation for its services. Dealer typically receive cash and warrants in connection with an offering.

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 ECFA is not clear how a portal cannot hold, manage, possess or otherwise handle investor funds. For example, if an escrow account is set up at a financial institution, is this an account of the portal or that of the issuer. A third party escrow agent will likely want little to no liability and only take instructions from a third party. It would make sense that this gate-keeper function would be handled by the portal and not the issuer. Investors would also typically expect a portal to be involved in collecting and disseminating any funds. We respectfully request additional clarification on this matter.

Other

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

No, the ECFA believes that the proposed requirements governing portals are acceptable.

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

We are concerned that the proposed regulation of crowdfunding portals prohibits exempt market dealers (EMDs) and investment fund dealers from operating an equity crowdfunding portal and relying on the Crowdfunding Prospectus Exemption to raise capital. We believe that these dealers should be able to raise capital under the Crowdfunding Prospectus Exemption or for that matter any prospectus exemption, adopted in any jurisdiction. Registered dealers understand corporate finance and capital raising and have important exempt market experience that new market entrants, such as a restricted dealer operating a crowdfunding portal may not have.

Also, we seek clarity on whether a holding company can own a restricted dealer, operating as a crowdfunding portal, as well as an EMD. Some investment groups would like to raise capital through a crowdfunding portal under the Crowdfunding Prospectus Exemption and concurrently under existing prospectus exemptions through an EMD. Moreover, crowdfunding portals may want to refer accredited investors to a related EMD instead of a third party EMD where they would receive a smaller referral fee, as opposed to the full transaction commission, or potentially lose the accredited investor who may invest directly with an issuer without paying any fee to the portal, after having been made aware of the investment opportunity from the portal performing its important role in the capital markets. Many crowdfunding portals believe their economic viability depends on whether they can also raise capital through a related EMD under other prospectus exemptions.

Based on the foregoing, the ECFA submits that a holding company should be able to own a portal that is registered as a restricted dealer as well as an EMD provided that they are each a separate legal entity that is operating and regulated in two different manners under Canadian securities law. In these scenarios, it is very important that executive oversight, board governance and compliancy processes be shared (*e.g.*, shared Chief Compliance Officer), in order to ensure the business viability of the emerging registrants in the crowdfunding portal operator marketplace.

The ECFA submits that this related company ownership model is a viable solution and reduces the risk of any public confusion involving a dually registered firm which we understand is the CSA's concern.

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 ECFA believes that the proposed fees are acceptable.

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

The ECFA believes that no other activity fees should be required.

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 ECFA believes that the proposed reporting strikes an acceptable balance between (i) the benefits of collecting useful information regarding the exempt market activity and (ii) the compliance burden imposed on issuers and intermediaries.

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?

No, the ECFA believes the proposed reporting requirements are adequate.

* * *

Thank you for the opportunity to provide you with our comments on the Proposed Exemptions and we would be pleased to discuss this with you further. Please feel free to contact the undersigned with any questions that arise from the ECFA comments. **The contributors to this ECFA comment letter are identified in Schedule "A" attached hereto.**

Sincerely,

Equity Crowdfunding Alliance of Canada

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Schedule "A"

Contributors to ECFA Comment Letter(s)

ECFA has organized its membership into a number of working committees to implement the organization's mandate.

There are currently a number of active Notices and Requests for Comment pending that were published by various securities regulators as well as the Canadian Securities Administrators (**CSA**) on behalf of its members. Some of the ECFA committees and certain of their members were actively involved in preparing comment letters to the BCSC, OSC, the ASC and AMF on behalf of several other CSA members, involving a number of new and amended capital raising exemptions.

The Co-Chairs of the ECFA Committees that coordinated with their ECFA members, as well as the individual contributors to this comment letter, are identified below.

The views presented in this letter represent the consolidated comments from a broad group of stakeholders within the ECFA membership, and do not necessarily represent the views of any individual contributor, or more importantly, the views of the individual contributor's employer.

Contributing Co-Chairs of ECFA Committees *(in alphabetical order)*

Raphael Bouskila Co-Chair, ECFA Portal Committee President, CoPower	***Darren Fach*** Co-Chair, ECFA 3rd Party Committee Partner, Mcleod Law LLP	***Jason Futko*** Co-Chair, ECFA EMD Committee Senior Managing Director, NVS Bancorp
Sandi Gilbert Co-Chair, Investor Committee CEO, Seedups	***Karen Hanna*** Co-Chair, ECFA 3rd Party Committee Lawyer, Hanna Prof Corp.	***Tim McKillican*** Co-Chair, Events Committee President, Open Avenue
Andrew Patricio Co-Chair, ECFA Issuer Committee CEO, BizLaunch	***Carlos Pinto Lobo*** Co-Chair, ECFA Portal Committee CCO, MaRS SVX	***Marcus New*** Co-Chair, ECFA Investor Committee Founder, InvestX
Peter-Paul Van Hoeken Co-Chair, ECFA EMD Committee CEO, Silver Maple Ventures		

Contributing ECFA members *(in alphabetical order)*

Edward Cheung Co-Founder, MetroFunder	***Rob Cook*** SVP, Canadian Securities Exchange	***Jean-Luc David*** Consultant, KorePlatforms
Domenic Durante CFO, Algolux	***Gratien Etiah*** Founder, Crowdvesting	***Ryan Franzen*** Partner, McLeod Law LLP
Jonathan Halwagi Partner, Fasken Martineau	***Greg Harper*** COO, BoardSuite	***Mark Lawrence*** Managing Director, NorthCrest Partners
Don Magie EIR, Angel One Investment Network	***Andrew Moussa*** Founder, Imperium Denim	***Don McDonald*** President, Waverly Corporate Financial Services
Perry Niro President, Groupe Avea	***Matthew Oliver*** Associate, Osler, Hoskin & Harcourt LLP	***Howard Oliver*** CEO, What If What Next
Mark Skapinker Managing Partner, Brightspark	***Paul Slaby,*** CEO, Yariba Tech	***Frances Zomer*** President, Numeric Answer