

CSA Notice of Publication of Multilateral Instrument 45-108 *Crowdfunding*

November 5, 2015

Introduction

The securities regulatory authorities in Manitoba, Ontario, Québec, New Brunswick and Nova Scotia (collectively, the **participating jurisdictions** or **we**) are publishing in final form Multilateral Instrument 45-108 *Crowdfunding* (**MI 45-108** or the **Rule**), which includes a crowdfunding prospectus exemption (the **crowdfunding exemption**) and a registration framework for funding portals (**funding portals**) (collectively, the **45-108 crowdfunding regime**). We are also making consequential amendments to other rules (the **consequential amendments**).

The Financial and Consumer Affairs Authority (**FCAA**) of Saskatchewan, which worked with the participating jurisdictions on the Rule, will be republishing MI 45-108 for a 60 day comment period.

The participating jurisdictions have coordinated their efforts in finalizing the 45-108 crowdfunding regime. In some jurisdictions, Ministerial approvals are required for the implementation of the 45-108 crowdfunding regime. Where applicable, Annex D provides information about each participating jurisdiction's approval process.

Provided all necessary Ministerial approvals are obtained, MI 45-108 will come into force in the participating jurisdictions on January 25, 2016.

Substance and purpose of the 45-108 crowdfunding regime

As securities regulators, we have the responsibility to examine whether securities law contributes to the efficient functioning of our capital markets, while maintaining adequate investor protection. This includes assessing whether the securities regulatory framework remains responsive and relevant in a dynamic environment that is being shaped by advances in technology and a broad array of demographic, cultural and economic forces. The internet and social media have enabled start-ups and technology companies that foster innovation to reach out to a large number of investors, including retail investors (the crowd), to raise capital.

Selling securities over the internet to a large number of investors, sometimes referred to as "crowdfunding", has emerged as a new way for some businesses, particularly start-ups and small and medium-sized enterprises (**SMEs**), to access capital that would not have otherwise been accessible. "Crowdfunding" is an umbrella term used to capture many forms of capital and fund raising, that in this context, we mean raising capital from members of the public through the distribution/sale of securities. Crowdfunding may enable issuers to raise capital more effectively and at a lower cost while also providing investors with greater access to investment opportunities. The 45-108 crowdfunding regime is intended to leverage the use of the internet and social media to facilitate capital formation primarily for start-ups and SMEs that foster innovation and to provide new investment opportunities for investors. At the same time, we believe the 45-108 crowdfunding regime maintains an appropriate level of investor protection and regulatory oversight to be responsive both to global market developments in this area and to our mandate to provide protection to investors.

The 45-108 crowdfunding regime will enable start-ups and SMEs in their early-stages of development to raise capital online from a large number of investors through a single registered funding portal. A limit on the total amount that can be raised will be imposed on issuers and investors will be subject to investment

limits as a means of limiting their exposure to a highly risky investment. The registration of the funding portal is a key investor protection measure as registration addresses, among other things, potential integrity concerns that may apply to funding portals and the persons operating them, as well as potential concerns relating to conflicts of interest and self-dealing.

We believe the introduction of the 45-108 crowdfunding regime is a significant step in enhancing capital raising alternatives in Canada, particularly for start-ups and SMEs. The introduction of the 45-108 crowdfunding regime in the participating jurisdictions will allow start-ups and SMEs to benefit from greater access to capital from investors that was previously limited.

The 45-108 crowdfunding regime encompasses measures which are intended to provide effective protection for investors, including:

Type of security	<ul style="list-style-type: none"> issuers can only offer non-complex securities
Investment limits	<ul style="list-style-type: none"> investors are subject to the following investment limits: <ul style="list-style-type: none"> an investor that does not qualify as an accredited investor: <ul style="list-style-type: none"> \$2,500 per investment, and in Ontario, \$10,000 in total in a calendar year, an accredited investor other than a permitted client: <ul style="list-style-type: none"> \$25,000 per investment, and in Ontario, \$50,000 in total in a calendar year, in Ontario, no investment limits for a permitted client
Offering document	<ul style="list-style-type: none"> issuers are required to prepare an offering document that contains all of the information about the issuer and its business that an investor should know before purchasing the issuer's securities
Risk acknowledgement form (RAF)	<ul style="list-style-type: none"> investors must complete a RAF requiring them to positively confirm having read and understood the risk warnings and information in the crowdfunding offering document before they can enter into an agreement to purchase securities
Liability for materials	<ul style="list-style-type: none"> issuers are accountable for and are subject to a standard of liability on the crowdfunding offering document and other permitted materials, and investors are provided with a related right of action
Advertising and solicitation	<ul style="list-style-type: none"> a prohibition on advertising and general solicitation
Ongoing disclosure	<ul style="list-style-type: none"> non-reporting issuers must make available to investors (i) annual financial statements, (ii) a notice of use of proceeds, and (iii) in New Brunswick, Nova Scotia and Ontario, a notice of a discontinuation of the issuer's business, a change in the issuer's industry or a change of control of the issuer reporting issuers must continue to comply with all of their disclosure requirements
Registered funding portal	<ul style="list-style-type: none"> issuers can only distribute securities through a single funding portal that is registered as an investment dealer, exempt market dealer or restricted dealer as outlined in the Rule, and must post the offering document and other permitted materials solely on that funding portal's online platform
Funding portal requirements	<ul style="list-style-type: none"> funding portals are prohibited from offering securities of a related issuer a funding portal must fulfill certain gatekeeper responsibilities prior to allowing an issuer access to its online platform, including reviewing the issuer's disclosure in the crowdfunding offering document and other permitted materials for completeness, accuracy and any misleading statements

	<ul style="list-style-type: none"> • a funding portal must review information and obtain background checks on the issuer and its directors, executive officers and promoters, and deny an issuer access to the funding portal in certain circumstances
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We note that the use of the internet for raising capital is not restricted to crowdfunding as defined in the 45-108 crowdfunding regime. Many online platforms today are used to raise capital under other prospectus exemptions such as the accredited investor exemption.

Background

On March 20, 2014, the securities regulatory authorities of Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia published a Notice of Publication and Request for Comment on two different crowdfunding prospectus exemption regimes:

- the start-up crowdfunding registration and prospectus exemptions (the **start-up crowdfunding exemptions**); and
- the proposed 45-108 crowdfunding regime.

The proposed 45-108 crowdfunding regime was also published on March 20, 2014 (the **March 2014 45-108 materials**) in a Notice and Request for Comment by the Ontario Securities Commission (OSC), as part of a broad review of the exempt market that would, among other things, introduce four new prospectus exemptions for issuers other than investment funds.

The securities regulatory authorities of British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia have implemented the start-up crowdfunding exemptions by way of local blanket orders on May 14, 2015. The 45-108 crowdfunding regime and the start-up crowdfunding exemptions are viewed by those jurisdictions (except for British Columbia, which is not a jurisdiction participating in the 45-108 crowdfunding regime) as complementary regimes, as the 45-108 crowdfunding regime is available to both reporting and non-reporting issuers and provides both higher investment limits for investors and higher limits on the amount issuers can raise.

Summary of written comments received by the participating jurisdictions

The comment period for the March 2014 45-108 materials ended on June 18, 2014. The participating jurisdictions collectively received 70 written submissions. We have considered the comments received and thank all of the commenters for their input.

Comment letters received by the following jurisdictions can be viewed on their websites as noted:

- OSC - www.osc.gov.on.ca
- AMF - www.lautorite.qc.ca/en

A summary of the comments submitted to the OSC, together with the responses of OSC staff, is contained in Annex F.

A summary of the general themes raised in the comment letters that were received across the participating jurisdictions is set out under the heading “Key themes from the comment letters” below.

Key themes from the comment letters

There were several key themes expressed throughout the comment letters submitted to us. Below is a summary of these key themes.

Investor protection

A significant number of commenters raised concerns related to investor protection. Many of the commenters noted the high probability that investors would lose their entire investment in a start-up or a SME because these businesses typically have low survival rates and there are often issues related to corporate governance, insider trading and integrity concerns.

Some of the commenters further noted that unsophisticated investors are particularly vulnerable in a crowdfunding investment environment. Particular concerns expressed included:

- investors lack the requisite expertise, skills and experience to invest in a crowdfunded offering,
- investors are unfamiliar with start-up investing principles and the risks particular to start-ups and SMEs,
- investors lack sufficient information to make appropriate investment decisions due to the low level of disclosure required of non-reporting issuers under the crowdfunding exemption,
- there will be limited access to ongoing information about a start-up or SME that is a non-reporting issuer,
- investors do not understand and appreciate the restrictions on their ability to resell the shares they purchase, and
- the risk of fraud in a crowdfunding environment, particularly given the increased access of unsophisticated investors to private markets that the exemption would provide and the broad reach afforded by the internet.

As we expand accessibility to the exempt market through crowdfunding, we recognize that investor protection measures are an important component of the framework and we will remain vigilant in monitoring the adequacy of the protection it affords investors. We believe the 45-108 crowdfunding regime we are introducing will provide greater access to capital for start-ups and SMEs and that the framework we are adopting, including the measures noted above, will provide effective protection for investors.

Investment limits

The March 2014 45-108 materials included proposed investment limits for all investors: a \$2,500 limit per investment and a \$10,000 limit for all investments made by an investor under the crowdfunding exemption in a calendar year. A large number of commenters expressed a range of opinions about the proposed investment limits.

One group of commenters thought the proposed investment limits would frustrate the 45-108 crowdfunding regime's objectives of facilitating capital raising for start-ups and SMEs, would interfere with investors' ability to pursue their investment objectives, and would not provide meaningful investor protection.

Another group of commenters recommended that the dollar amount of the investment limits be reduced for investors. The commenters pointed to the concept of crowdfunding being based on small investments made by a broad pool of investors and the limited amount of funds Canadians have available to invest annually as evidenced by published economic data. The commenters argued that lower investment limits would discourage over-concentration by unsophisticated investors in a risky class of investments.

Several commenters supported removing or increasing investment limits for accredited investors. The arguments in support of this position generally pertained to the relatively high level of sophistication such investors possess and their ability to retain advice and withstand loss.

We continue to believe that investment limits are a necessary and appropriate investor protection tool that can help to reduce the risk associated with an investment in securities under the crowdfunding exemption, while still facilitating capital-raising by start-ups and SMEs. However, in light of the feedback received, we considered different approaches to investment limits under the crowdfunding exemption and have made changes to the investment limits that were proposed in the March 2014 45-108 materials.

Financial statement assurance requirements for non-reporting issuers and other financial disclosure

Several commenters provided feedback regarding the proposed assurance requirements for the financial statements of a non-reporting issuer that distributes securities in reliance on the crowdfunding exemption. The commenters' recommendations on non-reporting issuers' financial statements included a mandatory audit, a review being sufficient and a tiered approach to assurance requirements.

We continue to support a tiered approach to financial statement assurance requirements. After considering the comments, we have simplified and raised the thresholds based on the amount an issuer has raised under one or more prospectus exemptions since its formation. As such, a non-reporting issuer's financial statements will be required to be:

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

We think these thresholds strike an appropriate balance between providing investors with reliable financial information and not imposing a disproportionate financial burden on start-ups and SMEs that have limited financial resources to pursue their business.

Offering limit

Several commenters expressed views about the proposed \$1.5 million limit on the aggregate amount that could be raised by an issuer group under the crowdfunding exemption. Although several commenters supported the proposed limit, an equal number of commenters thought the limit should be higher.

We maintain that a limit of \$1.5 million is appropriate. The focus of the crowdfunding exemption is to facilitate capital raising by start-ups and SMEs, and the proposed limit is commensurate with the capital needs of issuers at this stage of development. There are other prospectus exemptions available to address the needs of issuers at more advanced stages of development.

Funding portal registration in other registration categories and use of the crowdfunding exemption

Many commenters disagreed with the prohibition on a funding portal against being registered in another registration category and suggested other registrants should be allowed to use the crowdfunding exemption. These commenters noted that registrants in other categories would have the experience and expertise to perform the work and comply with requirements in the Rule. They also noted that this restriction would increase complexity and costs for an issuer raising funds under multiple prospectus exemptions, and limiting funding portals to one prospectus exemption would prevent funding portals from being economically viable.

We considered the comments received and amended the March 2014 45-108 materials to permit registered dealers, such as investment dealers and exempt market dealers, to use the crowdfunding exemption. However, these registered dealers will need to comply with all of the requirements applicable to their registration category, including performing specific know-your-client and know-your product due diligence on the issuers, in addition to the requirements applicable to a funding portal as set out in the Rule.

However, a funding portal registered as a restricted dealer is a specialized type of restricted dealer that can only rely on the crowdfunding exemption to facilitate distributions of simple securities and their review of issuers will be limited in comparison to the know-your-product obligations of investment dealers and exempt market dealers relying on the crowdfunding exemption. In light of the limited activities of the restricted dealer funding portal, they will not be required to conduct a suitability assessment for the investor and will not assess the merits or expected returns of an investment. Rather, the restricted dealer funding portal will provide a gatekeeper role focused on compliance by issuers with the requirements of the Rule. Considering the limited activities of the restricted dealer funding portal, we continue to believe a funding portal that is registered as a restricted dealer in accordance with the Rule should not be registered in any other registration category, and, in Ontario, should not be affiliated with another registered firm.

Custodial requirements – holding, handling or having access to purchaser funds or assets

Many commenters expressed an opinion on the restriction on holding, handling, or having access to client funds or securities by funding portals.

We acknowledge these comments and agree that client funds and assets would be better protected if they were held by the funding portal that is subject to capital and insurance requirements. We have amended the March 2014 45-108 materials so that a funding portal registered in the category of restricted dealer will be permitted to hold, handle, control or have access to purchaser funds provided the restricted dealer funding portal maintains the minimum capital requirement and fidelity bond insurance requirements equivalent to an exempt market dealer. Funding portals that are registered as exempt market dealers and investment dealers will be required to comply with the capital and insurance requirements applicable to their registration category and where applicable, as required by the Investment Industry Regulatory Organization of Canada.

Advertising and solicitation

The March 2014 45-108 materials proposed that all relevant information about a crowdfunding offering would be required to be made available only on the funding portal's online platform through which the distribution was to be made and not on any other website. An issuer could inform potential investors that the issuer was proposing to offer its securities under the crowdfunding exemption and refer the potential investors to the online platform of the funding portal for more information.

Commenters generally supported, or did not believe it was inappropriate to have, reasonable restrictions on advertising and solicitation by funding portals and issuers relying on the crowdfunding exemption. However, some commenters disagreed with the restrictions on advertising and solicitation by funding portals and issuers. They felt that limiting avenues or channels through which investors receive information or advertisements about an investment opportunity would be a detriment to an issuer seeking capital and to investors seeking as much information as possible about a potential investment. These commenters suggested that other means of communication, such as e-mail, text, or verbal communications, should also be permitted.

We note that an issuer is permitted to inform potential investors of its offering on the funding portal's online platform and may use any form of communication (e.g., text, email or posters) it chooses to direct potential investors to the funding portal's online platform. We continue to believe that all materials pertaining to a crowdfunding offering (including terms sheets and videos) should only be made available to potential investors on the funding portal's online platform for ease of investor reference and to facilitate the exchange of information and views that is conducive to eliciting the "wisdom of the crowd". This will also allow the funding portal to ensure that all materials of the issuer are consistent with the crowdfunding offering document and comply with the requirements on advertising and solicitation.

The funding portal is able to advertise its business. For example, it can advertise the fact that crowdfunding offerings could be made through the funding portal and the fact that information about such offerings would be posted on its online platform.

Changes to the March 2014 45-108 materials

After considering the comments received and consultations with stakeholders, we have made some changes to the proposal that was published for comment. We do not consider the changes made since the publication for comment to be material and therefore are not republishing the 45-108 crowdfunding regime for a further comment period.

Annex C contains a summary of notable changes between the March 2014 45-108 materials published for comment and the final publication.

Consequential amendments

National amendments

We are making consequential amendments to the following instrument:

- National Instrument 45-102 *Resale of Securities* so that securities distributed under the crowdfunding exemption are subject to a “restricted period” on resale.

In Québec, the consequential amendment to National Instrument 45-102 *Resale of Securities* are published for comment for a 30-day comment period. The consequential amendment is intended to come into force in Québec at the same time MI 45-108 comes into force on January 25, 2016.

Local amendments

Any changes to local rules or policies will be identified in a local notice, where applicable.

Local notices

Annex D is being published in any local jurisdiction that is making related changes to local securities laws and sets out any additional information that is relevant to that jurisdiction only.

Questions

Please refer your questions to any of:

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Annexes to Notice

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A1 Multilateral Instrument 45-108 *Crowdfunding*

A2 Form 45-108F1 *Crowdfunding Offering Document*

A3 Form 45-108F2 *Risk Acknowledgement*

A4 Form 45-108F3 *Confirmation of Investment Limits*

A5 Form 45-108F4 *Notice of Specified Key Events*

A6 Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information*

A7 Companion Policy 45-108CP *Crowdfunding*

Annex B – Amending Instrument for National Instrument 45-102 *Resale of Securities*

Annex C – Summary of Notable Changes to the March 2014 45-108 Materials

Annex D – Local Matters

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Multilateral Instrument 45-108 *Crowdfunding*

Multilateral Instrument 45-108 *Crowdfunding*

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Form 45-108F3 Confirmation of Investment Limits

Form 45-108F4 Notice of Specified Key Events

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

PART 1
DEFINITIONS AND INTERPRETATION

Definitions

1. In this Instrument

“accredited investor” means

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

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

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

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

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

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

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

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

- (a) the issuer and, if applicable, its parent are incorporated or organized under the laws of Canada or any jurisdiction of Canada;
- (b) the head office of the issuer is located in Canada;
- (c) a majority of the directors of the issuer are resident in Canada;
- (d) the principal operating subsidiary of the issuer, if any, is incorporated or organized under
 - (i) the laws of Canada or any jurisdiction of Canada, or
 - (ii) the laws of the United States of America or any state or territory of the United States of America or the District of Columbia;
- (e) the issuer is not an investment fund;

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

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

“executive officer” means an individual who is

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

“funding portal” means

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

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

“issuer group” means

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

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

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

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

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

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

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

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

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

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

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

Terms defined or interpreted in other instruments

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

Purchaser

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

Specifications – Québec

4. (1) In Québec, “trade” in this Instrument refers to any of the following activities:

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

(2) In Québec, the crowdfunding offering document and materials that are made available to purchasers by a reporting issuer in accordance with this Instrument are documents authorized by the Autorité des marchés financiers for use in lieu of a prospectus.

(3) In Québec, the crowdfunding offering document and materials that are made available to purchasers in accordance with this Instrument must be drawn up in French only or in French and English.

PART 2 CROWDFUNDING PROSPECTUS EXEMPTION

Division 1: Distribution requirements

Crowdfunding prospectus exemption

5. (1) The prospectus requirement does not apply to a distribution by an eligible crowdfunding issuer of an eligible security of its own issue to a person or company that purchases the security as principal if all of the following apply:
- (a) the issuer offers the securities during the distribution period and the distribution period ends no later than 90 days after the date the issuer first offers its securities to purchasers;
 - (b) the total proceeds raised by the issuer group in reliance on the crowdfunding prospectus exemption does not exceed \$1,500,000 within the 12-month period ending on the last day of the distribution period;

- (c) in Ontario, the acquisition cost of the securities acquired by the purchaser
 - (i) in the case of a purchaser that is not an accredited investor, does not exceed
 - (A) \$2,500 for the distribution, and
 - (B) \$10,000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year,
 - (ii) in the case of a purchaser that is an accredited investor that is not a permitted client, does not exceed
 - (A) \$25,000 for the distribution, and
 - (B) \$50,000 for all distributions in reliance on the crowdfunding prospectus exemption in the same calendar year, and
 - (iii) in the case of a purchaser that is a permitted client, is not limited;
- (d) except in Ontario, the acquisition cost of the securities acquired by the purchaser
 - (i) in the case of a purchaser that is not an accredited investor, does not exceed \$2,500 for the distribution, and
 - (ii) in the case of a purchaser that is an accredited investor, does not exceed \$25,000 for the distribution;
- (e) the issuer distributes the securities through a single funding portal;
- (f) before the purchaser enters into an agreement to purchase the securities, the issuer makes available to the purchaser, through the funding portal, a crowdfunding offering document that is in compliance with
 - (i) section 7 [*Certificates*] and section 8 [*Right of withdrawal*], and
 - (ii) section 9 [*Liability for misrepresentation – reporting issuers*] or section 10 [*Liability for untrue statement – non-reporting issuers*], as applicable.

(2) The crowdfunding prospectus exemption is not available if any of the following apply:

- (a) the proceeds of the distribution are used by the issuer to invest in, merge with or acquire an unspecified business;
- (b) the issuer is not a reporting issuer, and the issuer previously distributed securities in reliance on the crowdfunding prospectus exemption and is not in compliance with any of the following:
 - (i) section 15 [*Filing or delivery of distribution materials*];
 - (ii) section 16 [*Annual financial statements*];
 - (iii) section 17 [*Annual disclosure of use of proceeds*];

- (iv) section 19 [*Period of time for providing ongoing disclosure*];
- (v) section 20 [*Books and records*];
- (vi) in New Brunswick, Nova Scotia and Ontario, section 18 [*Notice of specified key events*];
- (c) the issuer is a reporting issuer and is not in compliance with its reporting obligations under securities legislation, including under this Instrument;
- (d) the issuer has previously commenced a distribution under this section and that distribution has not closed, been withdrawn or otherwise terminated.

Conditions for closing of the distribution

- 6.** A distribution in reliance on the crowdfunding prospectus exemption must not close unless
- (a) the right of withdrawal has expired,
 - (b) the aggregate minimum proceeds have been raised through one or both of the following:
 - (i) the distribution;
 - (ii) any concurrent distributions by any member of the issuer group, provided that the proceeds from those distributions are unconditionally available to the eligible crowdfunding issuer at the time of closing of the distribution,
 - (c) the issuer has provided to the funding portal written confirmation of the proceeds of the concurrent distributions referred to in subparagraph (b)(ii), if any,
 - (d) the issuer has received
 - (i) the purchase agreement entered into between the issuer and the purchaser,
 - (ii) a risk acknowledgement form for the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,
 - (iii) except in Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500, and
 - (iv) in Ontario, a confirmation of investment limits form for the purchaser, and
 - (e) the closing occurs within 30 days of the end of the distribution period.

Certificates

- 7. (1)** A crowdfunding offering document made available under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*] must contain a certificate executed by the issuer in accordance with the applicable provisions of Appendix A, which

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

Right of withdrawal

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

Liability for misrepresentation – reporting issuers

9. If the securities legislation of the jurisdiction in which a purchaser resides does not provide a comparable right, the crowdfunding offering document of a reporting issuer, made available to the purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], must provide a contractual right of action against the issuer for rescission and damages that

- (a) is available to the purchaser if the crowdfunding offering document or other materials made available to the purchaser contain a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,
- (b) is enforceable by the purchaser delivering a notice to the issuer
 - (i) in the case of an action for rescission, within 180 days after the date of purchase by the purchaser, or
 - (ii) in the case of an action for damages, before the earlier of
 - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - (B) 3 years after the date of purchase,

- (c) is subject to the defence that the purchaser had knowledge of the misrepresentation,
- (d) in the case of an action for damages, provides that the amount recoverable
 - (i) does not exceed the price at which the security was distributed, and
 - (ii) does not include all or any part of the damages that the issuer proves do not represent the depreciation in value of the security resulting from the misrepresentation, and
- (e) is in addition to, and does not detract from, any other right of the purchaser.

Liability for untrue statement – non-reporting issuers

10. The crowdfunding offering document of an issuer that is not a reporting issuer, made available to a purchaser under paragraph 5(1)(f) [*Crowdfunding prospectus exemption*], must provide a contractual right of action against the issuer for rescission and damages that

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

Advertising and general solicitation

11. (1) An issuer must not, directly or indirectly, advertise a distribution, or solicit purchasers, under the crowdfunding prospectus exemption.

- (2) Despite subsection (1), the issuer may inform purchasers that it proposes to distribute securities under the crowdfunding prospectus exemption and may refer purchasers to the funding portal facilitating the distribution.

Additional distribution materials

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

Commissions or fees

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

Restriction on lending

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

Filing or delivery of distribution materials

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

Division 2: Ongoing disclosure requirements for non-reporting issuers

Annual financial statements

- 16. (1)** An issuer that is not a reporting issuer that has distributed securities under the crowdfunding prospectus exemption must deliver to the securities regulatory authority or regulator and make reasonably available to each purchaser, within 120 days after the end of its most recently completed financial year, the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (2)** The financial statements referred to in subsection (1) must
- (a) be approved by management of the issuer and be accompanied by
 - (i) a review report or auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$250,000 or more but is less than \$750,000, or
 - (ii) an auditor's report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until the end of its most recently completed financial year, is \$750,000 or more,
 - (b) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles – general requirements*], and subsection 3.2(5) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (c) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (3)** If the financial statements referred to in subsection (1) are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
- (a) not include a reservation or modification,
 - (b) identify the financial periods that were subject to review,
 - (c) be in the form specified by Canadian Financial Statement Review Standards, and
 - (d) refer to IFRS as the applicable financial reporting framework.
- (4)** If the financial statements referred to in subsection (1) are accompanied by an auditor's report, the auditor's report must be
- (a) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and

- (b) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (5) If the financial statements referred to in subsection (1) are those of an SEC issuer,
- (a) the financial statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,
 - (b) the financial statements may be reviewed in accordance with U.S. AICPA Financial Statement Review Standards and accompanied by a review report prepared in accordance with U.S. AICPA Financial Statement Review Standards that
 - (i) does not include a modification or exception,
 - (ii) identifies the financial periods that were subject to review,
 - (iii) identifies the review standards used to conduct the review and the accounting principles used to prepare the financial statements, and
 - (iv) refers to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (c) the financial statements may be audited in accordance with section 3.8 [*Acceptable auditing standards for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (6) If the financial statements referred to in subsection (5) are accompanied by a review report and the statements have been reviewed in accordance with Canadian Financial Statement Review Standards, the review report must be in compliance with paragraphs (3)(a) to (c) and must
- (a) refer to IFRS as the applicable financial reporting framework if the financial statements comply with paragraph 3.2(1)(a) [*Acceptable accounting principles – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, or
 - (b) refer to U.S. GAAP as the applicable financial reporting framework if the financial statements comply with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (7) For the purpose of subsection (3) and paragraph (5)(b), the review report must be prepared and signed by a person or company authorized to sign a review report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.
- (8) If any of the financial statements referred to in subsection (1) are not accompanied by an auditor’s report or a review report prepared by a public accountant, the statements must include the following statement; “*These financial statements were not audited or subject to a review by a public accountant, as permitted by securities legislation where an issuer has not raised more than a pre-defined amount under prospectus exemptions.*”

Annual disclosure of use of proceeds

17. (1) The financial statements of an issuer referred to in section 16 [*Annual financial statements*] and the financial statements required under section 4.1 [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations* must be accompanied by a notice that details, as at the date of the issuer's most recently completed financial year, the use of the gross proceeds received by the issuer from a distribution made under the crowdfunding prospectus exemption.

(2) An issuer is not required to provide the notice referred to in subsection (1) if

- (a) the issuer has disclosed in one or more prior notices the use of the entire gross proceeds from the distribution, or
- (b) the issuer is no longer required to deliver, and make available to purchasers, annual financial statements.

Notice of specified key events

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

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

Period of time for providing ongoing disclosure

19. The obligations of an issuer that is not a reporting issuer under section 16 [*Annual financial statements*] and, in New Brunswick, Nova Scotia and Ontario, under section 18 [*Notice of specified key events*] apply until the earliest of the following events:

- (a) the issuer becomes a reporting issuer;
- (b) the issuer has completed a winding up or dissolution;
- (c) the securities of the issuer are beneficially owned, directly or indirectly, by fewer than 51 security holders worldwide.

Books and records

20. An issuer that is not a reporting issuer that distributes securities under the crowdfunding prospectus exemption must maintain the following books and records relating to the distribution for 8 years following the closing of the distribution:

- (a) the crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*];

- (b) the risk acknowledgement forms;
- (c) except in Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500;
- (d) in Ontario, the confirmation of investment limits forms;
- (e) the ongoing disclosure documents described in Division 2 [*Ongoing disclosure requirements for non-reporting issuers*];
- (f) the aggregate number of securities issued under the crowdfunding prospectus exemption, and the date of issuance and the price for each security;
- (g) the names of all security holders of the issuer and the number and the type of securities held by each security holder;
- (h) such other books and records as are necessary to record the business activities of the issuer and to comply with this Instrument.

PART 3 REQUIREMENTS FOR FUNDING PORTALS

Division 1: Registration requirements, general

Restricted dealer funding portal

21. A restricted dealer funding portal and a registered individual of the restricted dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:

- (a) the requirements in this section and in Division 2 [*Registration requirements, funding portals*] and Division 3 [*Additional requirements, restricted dealer funding portal*] of this Part;
- (b) the terms, conditions, restrictions and requirements applicable to a registered dealer and to a registered individual, respectively, including
 - (i) National Instrument 31-102 *National Registration Database*,
 - (ii) National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, except for the following:
 - (A) Division 2 of Part 3 [*Education and experience requirements*], except for subsection 3.4(2) [*Proficiency – initial and ongoing*] and section 3.9 [*Exempt market dealer - dealing representative*];
 - (B) section 6.2 [*If IIROC approval is revoked or suspended*];
 - (C) section 6.3 [*If MFDA approval is revoked or suspended*];
 - (D) Part 8 [*Exemptions from the requirement to register*];

- (E) Part 9 [*Membership in a self-regulatory organization*];
 - (F) paragraphs 11.5(2)(i), and (j) [*General requirements for records*];
 - (G) paragraphs 13.2(2)(c) and (d) and subsection 13.2(6) [*Know your client*];
 - (H) section 13.3 [*Suitability*];
 - (I) Division 3 of Part 13 [*Referral arrangements*], if the restricted dealer funding portal does not enter into a referral arrangement permitted under subsection 40(2) [*Restriction on referral arrangements*] of this Instrument;
 - (J) section 13.13 [*Disclosure when recommending the use of borrowed money*];
 - (K) section 13.16 [*Dispute resolution service*];
 - (L) paragraphs 14.2(2)(i), (j), (k), (m), and (n) [*Relationship disclosure information*];
 - (M) Division 5 of Part 14 [*Reporting to clients*], except for section 14.12 [*Content and delivery of trade confirmation*],
- (iii) National Instrument 33-105 *Underwriting Conflicts*,
 - (iv) National Instrument 33-109 *Registration Information*, and
 - (v) the requirement to pay fees under securities legislation;
- (c) the requirement to deal fairly, honestly and in good faith with purchasers;
 - (d) any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the restricted dealer funding portal or on a registered individual of the restricted dealer funding portal.

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

Registered dealer funding portal

22. A registered dealer funding portal and a registered individual of the registered dealer funding portal that distributes securities in reliance on the crowdfunding prospectus exemption must comply with all of the following:

- (a) the requirements in this section and Division 2 [*Registration requirements, funding portals*] of this Part;
- (b) the terms, conditions, restrictions or requirements applicable to its registration category and to a registered individual, respectively, under securities legislation.

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

Division 2: Registration requirements, funding portals

Restricted dealing activities

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

Advertising and general solicitation

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

Access to funding portal

- 25. (1)** Prior to allowing an eligible crowdfunding issuer to access the funding portal for the purposes of posting a distribution, a funding portal must
- (a) enter into an issuer access agreement with the issuer,
 - (b) obtain a personal information form from each director, executive officer and promoter of the issuer, and

- (c) conduct or arrange for the following:
 - (i) backgrounds checks on the issuer;
 - (ii) criminal record and background checks on each individual referred to in paragraph (b).
- (2) In respect of each individual who becomes a director, executive officer or promoter of the issuer during the distribution period, the funding portal must
- (a) obtain a personal information form, and
 - (b) conduct or arrange for criminal record and background checks to be conducted.

Issuer access agreement

26. The issuer access agreement referred to in paragraph 25(1)(a) [*Access to funding portal*] must include all of the following:

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

Obligation to review materials of eligible crowdfunding issuer

- 27. (1)** A funding portal is required to review the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about an issuer or a distribution made available to the funding portal or of which the funding portal is aware.
- (2) If it appears to the funding portal that, based upon its review of the information and materials in subsection (1), the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is incorrect, incomplete or misleading, the funding portal must require that the issuer correct, complete or clarify the incorrect, incomplete or misleading disclosure prior to its posting on the funding portal's online platform.

Denial of issuer access and termination

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

Return of funds

- 29.** A funding portal must promptly return to the purchaser all funds or assets received from a purchaser in connection with a distribution under the crowdfunding prospectus exemption if any of the following apply:
- (a) the purchaser exercises its right of withdrawal;
 - (b) the requirements set out in section 6 [*Conditions for closing of the distribution*] are not met;
 - (c) the issuer withdraws the distribution;
 - (d) the distribution is otherwise terminated.

Notifications

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

Removal of distribution materials

31. A funding portal must remove a crowdfunding offering document and the materials referred to in subsection 12(1) [*Additional distribution materials*] on the earliest of the following:

- (a) the end of the distribution period;
- (b) the withdrawal of the distribution;
- (c) the date on which the funding portal becomes aware that the crowdfunding offering document or the materials may contain a statement or information that is false, deceptive, misleading or that may constitute a misrepresentation or untrue statement of a material fact.

Monitoring purchaser communications

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

Online platform acknowledgement

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

- (a) that a distribution posted on the funding portal's online platform
 - (i) has not been reviewed or approved in any way by a securities regulatory authority or regulator, and
 - (ii) is risky and may result in the loss of all or most of an investment;
- (b) that the person or company may receive limited ongoing information about an issuer or an investment made through the funding portal;
- (c) that the person or company is entering an online platform operated by a funding portal that

- (i) is registered in the category of restricted dealer subject to the terms and conditions of this Instrument, and will not provide advice about the suitability of the purchase of the security, or
- (ii) is registered in the category of investment dealer or exempt market dealer, and is required to provide advice about the suitability of the purchase of the security.

Purchaser requirements prior to purchase

34. Prior to a purchaser entering into an agreement to purchase securities under the crowdfunding prospectus exemption, a funding portal must

- (a) obtain from the purchaser a risk acknowledgement form where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document,
- (b) except in Ontario, confirm and validate that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500, and
- (c) in Ontario, obtain from the purchaser, and validate, a confirmation of investment limits form.

Required online platform disclosure

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

Delivery to the issuer

36. On or before the closing of a distribution, the funding portal must deliver to the issuer the following:

- (a) the purchase agreement entered into between the issuer and the purchaser;
- (b) a risk acknowledgement form from the purchaser where the purchaser positively confirms having read and understood the risk warnings and the information in the crowdfunding offering document;
- (c) except in Ontario, confirmation and validation that the purchaser is an accredited investor, if the acquisition cost is greater than \$2,500;
- (d) in Ontario, a confirmation of investment limits form for the purchaser.

Release of funds

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

Reporting requirements

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

Division 3: Additional requirements, restricted dealer funding portal

Prohibition on providing recommendations or advice

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

Restriction on referral arrangements

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

Permitted dealing activities

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

Chief compliance officer

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

Proficiency

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

PART 4 EXEMPTION

Exemption

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

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

**PART 5
COMING INTO FORCE**

Effective date

- 45. This Instrument comes into force on January 25, 2016.

Appendix A

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

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

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

Annex A2

Form 45-108F1
Crowdfunding Offering Document

Form 45-108F1
Crowdfunding Offering Document

Instructions

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

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

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

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

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

ITEM 1 – Warning to purchasers

ITEM 2 – Brief overview of the issuer

ITEM 3 – Brief overview of the issuer’s business

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

ITEM 5 – What you need to know about the distribution

ITEM 6 – What you need to know about the issuer

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

ITEM 8 – What you need to know about your rights

ITEM 9 – Other relevant information

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

ITEM 11 – Certificate

ITEM 1 – WARNING TO PURCHASERS

Include the following statement, in bold type:

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

ITEM 2 – BRIEF OVERVIEW OF THE ISSUER

2.1 – Issuer information

Provide the following information in the table below:

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

Instructions:

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

2.2 – Issuer contact person

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

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

ITEM 3 – BRIEF OVERVIEW OF THE ISSUER’S BUSINESS

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

Include the following statement, in bold type:

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

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

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

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

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

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

- (a) has ever pled guilty to or been found guilty of:
 - (i) a summary conviction or indictable offence under the *Criminal Code* (R.S.C., 1985, c. C-46) of Canada;
 - (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;
 - (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein;
 - (iv) an offence under the criminal legislation of any other foreign jurisdiction,
- (b) is or has been the subject of an order (cease trade or otherwise), judgment, decree, sanction, or administrative penalty imposed by a government agency, administrative agency, self-regulatory organization, civil court, or administrative court of Canada or a foreign

jurisdiction in the last ten years related to his or her involvement in any type of business, securities, insurance or banking activity,

(c) is or has been the subject of a bankruptcy or insolvency proceeding in the last ten years, and/or

(d) is an executive officer, director, promoter or control person of an issuer that is or has been subject to a proceeding described in paragraphs (a), (b) or (c) above.

ITEM 5 – WHAT YOU NEED TO KNOW ABOUT THE DISTRIBUTION

5.1 – Distribution information

Provide the following information in the table below:

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

Instructions:

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

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

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

5.2 – Aggregate proceeds

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

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

Provide the following information in the tables below:

Proceeds to be raised

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

Instructions:

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

Use of proceeds

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

Instructions:

1. Describe the fees (e.g., commission, arranging fee or other fee) that the funding portal is charging for its services. Describe each type of fee and the estimated amount to be paid for each type. If a commission is being paid, indicate the percentage that the commission will represent of the gross proceeds of the distribution.
2. Disclose the estimated number and value of the issuer's securities to be issued, if any, in consideration for all or a portion of the portal's fees.
3. State the nature of each expense (e.g. legal, accounting, audit) and the estimated amount of the expense.
4. State the business objectives the issuer expects to accomplish using the proceeds to be raised, assuming: (i) the aggregate minimum proceeds are raised; and (ii) if applicable, the maximum amount is

raised. Describe each business objective and state the estimated time period for the objective to be accomplished and the costs related to accomplishing it. Each business objective must be included in a separate row in the table.

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

Business Acquisition

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

5.3 – Concurrent distributions

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

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

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

5.4 – Description of securities distributed and relevant rights

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

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

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

Other rights or obligations

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

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

Any other restrictions or conditions

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

Dilution

Include the following statement:

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

5.5 – Other crowdfunding distributions

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

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

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

For closed crowdfunding distributions:

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

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

ITEM 6 – WHAT YOU NEED TO KNOW ABOUT THE ISSUER

6.1 – Issuer’s business

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

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

Briefly describe:

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

6.2 – Related party relationships and transactions

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

Family relationships

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

If yes, describe the nature of each relationship.

Proceeds to be raised

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

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

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

6.3 – Principal risks facing the business

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

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

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

Litigation

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

6.4 – Financial information

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

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

Fiscal year end

Month and Day: _____

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

6.5 – Ongoing disclosure

Briefly describe how the issuer intends to communicate with purchasers.

Reporting issuer

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

Non-reporting issuer

If the issuer is a non-reporting issuer:

- (a) state that the issuer has limited disclosure obligations under securities legislation and that the issuer is required to provide only annual financial statements and annual disclosure regarding use of proceeds;
- (b) state the nature and frequency of any other disclosure the issuer intends to provide to purchasers;
- (c) explain how purchasers can access the disclosure documents referred to in paragraphs (a) and (b).

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

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

6.6 – Capital structure

Disclose the following information:

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

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

A - Number of securities being distributed under this distribution

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

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

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

6.7 – Connected issuers

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

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

6.8 – Management compensation

Reporting issuer

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

Non-reporting issuer

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

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

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


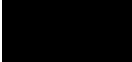
6.9 – Mining issuer disclosure

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

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

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

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

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

Include the following statement:

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

ITEM 8 – WHAT YOU NEED TO KNOW ABOUT YOUR RIGHTS

Reporting issuer

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

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

Non-reporting issuer

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

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

this crowdfunding offering document by delivering a notice to the funding portal within 48 hours after the date of subscription.

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

ITEM 9 – OTHER RELEVANT INFORMATION

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

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

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

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

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

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

ITEM 11 - CERTIFICATE

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

For reporting issuers:

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

For non-reporting issuers:

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

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

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

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

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

Securities regulatory authorities and regulators of the participating jurisdictions:

Manitoba	The Manitoba Securities Commission 500 – 400 St Mary Avenue Winnipeg, Manitoba R3C 4K5 Telephone: 204-945-2548 Toll free in Manitoba: 1-800-655-2548 Fax: 204-945-0330 E-mail: exemptions.msc@gov.mb.ca www.msc.gov.mb.ca
New Brunswick	Financial and Consumer Services Commission 85 Charlotte Street, Suite 300 Saint John, New Brunswick E2L 2J2 Toll free: 1-866-933-2222 Fax: 506-658-3059 E-mail: info@fcnb.ca www.fcnb.ca
Nova Scotia	Nova Scotia Securities Commission Suite 400, 5251 Duke Street Halifax, Nova Scotia B3J 1P3 Telephone: 902-424-7768 Toll free in Nova Scotia: 1-855-424-2499 Fax: 902-424-4625 E-mail: nssc.crowdfunding@novascotia.ca www.nssc.gov.ns.ca

Ontario

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

Québec

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

Schedule A

Crowdfunding Offering Document Financial Statement Requirements

1. In this schedule

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

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

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

Reporting issuer

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

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

Non-reporting issuer

3. If the issuer is not a reporting issuer

- (a) Attach as an appendix to this crowdfunding offering document the financial statements listed in paragraphs 4.1(1)(a), (b), (c) and (e) [*Comparative annual financial statements and audit*] of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (b) Despite paragraph (a), if the issuer has not completed a financial year, attach as an appendix to this crowdfunding offering document financial statements that include
 - (i) a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for the period from the date of the formation of the issuer to a date not more than 90 days before the date of this crowdfunding offering document,
 - (ii) a statement of financial position as at the end of the period referred to in subparagraph (i), and
 - (iii) notes to the financial statements.
- (c) The financial statements referred to in paragraphs (a) and (b), and any other financial statements that are attached as an appendix to this crowdfunding offering document, must
 - (i) be approved by management and be accompanied by

- A. a review report or auditor’s report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$250,000 or more but is less than \$750,000, or
 - B. an auditor’s report if the amount raised by the issuer under one or more prospectus exemptions from the date of the formation of the issuer until 90 days before the date of this crowdfunding offering document, is \$750,000 or more,
- (ii) comply with paragraph 3.2(1)(a) [*Acceptable accounting principles - general requirements*], subparagraph 3.2(1)(b)(i) [*Acceptable accounting principles - general requirements*], and subsection 3.2(5) [*Acceptable accounting principles - general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (iii) comply with section 3.5 [*Presentation and functional currencies*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (d) If the financial statements referred to paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by a review report, the financial statements must be reviewed in accordance with Canadian Financial Statement Review Standards and the review report must
- (i) not include a reservation or modification,
 - (ii) identify the financial periods that were subject to review,
 - (iii) be in the form specified by Canadian Financial Statement Review Standards, and
 - (iv) refer to IFRS as the applicable financial reporting framework.
- (e) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are accompanied by an auditor’s report, the auditor’s report must be
- (i) prepared in accordance with section 3.3 [*Acceptable auditing standards – general requirements*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, and
 - (ii) signed by an auditor that complies with section 3.4 [*Acceptable auditors*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.
- (f) If the financial statements referred to in paragraphs (a) and (b), or any other financial statements that are attached as an appendix to this crowdfunding offering document, are those of an SEC issuer,
- (i) the statements may be prepared in accordance with section 3.7 [*Acceptable accounting principles for SEC issuers*] of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*,

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

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

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

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

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

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

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

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

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

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

Annex A3

**Form 45-108F2
Risk Acknowledgement**

**Form 45-108F2
Risk Acknowledgement**

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

Issuer name: i.e., ABC Company

Type of security offered: i.e., common share

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

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

3. Limited legal rights

Limited legal rights – Do you understand that you will not have the same rights as if you purchased under a prospectus or through a stock exchange?

If you want to know more, you may need to seek professional legal advice.

4. Purchaser's understanding of this investment

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

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

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

5. Purchaser's acknowledgement

First and last name:

Date:

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

6. Additional information

- **You have 48 hours to cancel your purchase from the date of the agreement to purchase the security and any amendment to the crowdfunding offering document of the issuer, by sending a notice to the funding portal at:** *[Instructions: Provide an email address or a fax number where purchasers can send their notice. Describe any other way purchasers can cancel their purchase.]*
- **To check if the funding portal is operated by a registered dealer, go to www.aretheyregistered.ca**
- **If you want more information about your local securities regulatory authority, go to www.securities-administrators.ca**

Annex A4

Form 45-108F3
Confirmation of Investment Limits

Form 45-108F3
Confirmation of Investment Limits

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

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

A. Permitted Client

You are a permitted client because:

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

B. Accredited Investor

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

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

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

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

C. Retail Investor

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

Confirmation (if you are a retail investor)

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

Purchaser acknowledgement

First and last name:

Date:

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

Funding portal information

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

First and last name of registered individual:

Telephone:

Email:

Name of firm:

Registration Category:

Annex A5

Form 45-108F4
Notice of Specified Key Events

Form 45-108F4
Notice of Specified Key Events

Instructions: This is the form of notice required under section 18 of Multilateral Instrument 45-108 Crowdfunding in New Brunswick, Nova Scotia and Ontario to be made available to holders of securities acquired under the crowdfunding prospectus exemption.

1. Issuer Name and Address

Full legal name:

Street address:

Province/State:

Municipality:

Postal code/Zip code:

Website:

Country:

2. Specified Key Event

The event, as described in section 3, is (checkmark all that apply):

- a discontinuation of the issuer's business
- a change in the issuer's industry
- a change of control of the issuer

Date on which the event occurred (yyyy/mm/dd):

3. Event Description

Provide a brief description of the event identified in section 2.

4. Contact Person

Provide the following information for a person at the issuer who can be contacted regarding the event described in section 3.

Name:

Title:

Email address:

Telephone number:

Date of notice (yyyy/mm/dd):

Annex A6

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

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

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

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

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

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

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

DEFINITIONS

“Offence” An offence includes:

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

“Proceedings” means:

- (a) a civil or criminal proceeding or inquiry which is currently before a court;
- (b) a proceeding before an arbitrator or umpire or a person or group of persons authorized by law to make an inquiry and take evidence under oath in the matter;

- (c) a proceeding before a tribunal in the exercise of a statutory power of decision making where the tribunal is required by law to hold or afford the parties to the proceeding an opportunity for a hearing before making a decision; or
- (d) a proceeding before a self-regulatory entity authorized by law to regulate the operations and the standards of practice and business conduct of its members (including where applicable, issuers listed on a stock exchange) and individuals associated with those members and issuers, in which the self-regulatory entity is required under its by-laws, rules or policies to hold or afford the parties the opportunity to be heard before making a decision, but does not apply to a proceeding in which one or more persons are required to make an investigation and to make a report, with or without recommendations, if the report is for the information or advice of the person to whom it is made and does not in any way bind or limit that person in any decision the person may have the power to make;

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

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

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

1. Identification of individual completing form

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

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

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

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

		Yes	No
2. Citizenship			
(i)	Are you a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
(ii)	Are you a person lawfully in Canada as an immigrant but are not yet a Canadian citizen?	<input type="checkbox"/>	<input type="checkbox"/>
(iii)	If "Yes" to Question 2(ii), the number of years of continuous residence in Canada:		
(iv)	Do you hold citizenship in any country other than Canada?	<input type="checkbox"/>	<input type="checkbox"/>
(v)	If "Yes" to Question 2(iv), the name of the country(ies):		

3. Employment history						
Provide your complete employment history for the 5 YEARS immediately prior to the date of this Form starting with your current employment. Use an attachment if necessary. If you were unemployed during this period of time, state this and identify the period of unemployment.						
Employer name	Employer address	Position held	From		To	
			MM	YY	MM	YY

		Yes	No
4. Involvement with issuers			
A.	Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any issuer?	<input type="checkbox"/>	<input type="checkbox"/>

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

5. Educational history

A.	Professional designation(s)			
	Identify any professional designation held and professional associations to which you belong, for example, Barrister & Solicitor, C.P.A., C.A., C.M.A., C.G.A., P.Eng., P.Geol., CFA, etc. and indicate which organization and the date the designations were granted.			
	Professional Designation and Membership Number	Grantor of designation and Canadian or Foreign Jurisdiction	Date granted	
			MM	YY

Describe the current status of any designation and/or association (e.g. active, retired, non-practicing, suspended).						
B. Provide your post-secondary educational history starting with the most recent.						
School	Location	Degree or diploma	Date obtained			
			MM	DD	YY	

Yes	No
-----	----

6. Offences

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

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

		Yes	No
7. Bankruptcy			
If you answer “YES” to any item in Question 7, you <u>must</u> provide complete details in an attachment and attach a copy of any discharge, release or other applicable document. You must answer “YES” or “NO” for EACH of (A), (B) and (C) below.			
A.	Have you, in any Canadian or foreign jurisdiction, within the past 10 years had a petition in bankruptcy issued against you, made a voluntary assignment in bankruptcy, made a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors, or had a receiver, receiver-manager or trustee appointed to manage your assets?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Are you now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>
C.	To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events, or for a period of 12 months preceding the time of events, where the issuer:		
	(i) has made a petition in bankruptcy, a voluntary assignment in bankruptcy, a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors or had a receiver, receiver-manager or trustee appointed to manage the issuer’s assets?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) is now an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
8. Proceedings			
If you answer “YES” to any item in Question 8, you must provide complete details in an attachment.			
A.	Current proceedings by securities regulatory authority or self regulatory entity. Are you now, in any Canadian or foreign jurisdiction, the subject of:		
	(i) a notice of hearing or similar notice issued by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) a proceeding of or, to your knowledge, an investigation by, an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii) settlement discussions or negotiations for settlement of any nature or kind whatsoever with an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>

B.	Prior proceedings by securities regulatory authority or self regulatory entity. Have you <u>ever</u> :		
	(i) been reprimanded, suspended, fined, been the subject of an administrative penalty, or been the subject of any proceedings of any kind whatsoever, in any Canadian or foreign jurisdiction, by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>
	(iii) been prohibited or disqualified by an SRA or SRE under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer or been prohibited or restricted by an SRA or SRE from acting as a director, officer or employee of, or an agent or consultant to, a reporting issuer?	<input type="checkbox"/>	<input type="checkbox"/>
	(iv) had a cease trading or similar order issued against you or an order issued against you by an SRA or SRE that denied you the right to use any statutory prospectus or registration exemption?	<input type="checkbox"/>	<input type="checkbox"/>
(v) had any other proceeding of any kind taken against you by an SRA or SRE?	<input type="checkbox"/>	<input type="checkbox"/>	
C.	Settlement agreement(s)		
	Have you ever entered into a settlement agreement with an SRA, SRE, attorney general or comparable official or body, in any Canadian or foreign jurisdiction, in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct, or any other settlement agreement with respect to any other violation of securities legislation in a Canadian or foreign jurisdiction or the rules, by-laws or policies of any SRE?	<input type="checkbox"/>	<input type="checkbox"/>
D.	To the best of your knowledge, are you now or have you ever been a director, officer, promoter, insider, or control person of an issuer at the time of such event, in any Canadian or foreign jurisdiction, for which a securities regulatory authority or self-regulatory entity has:		
	(i) refused, restricted, suspended or cancelled the registration or licensing of an issuer to trade securities, exchange or commodity futures contracts, or to sell or trade real estate, insurance or mutual fund products?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) issued a cease trade or similar order or imposed an administrative penalty of any nature or kind whatsoever against the issuer, other than an order for failure to file financial statements that was revoked within 30 days of its issuance?	<input type="checkbox"/>	<input type="checkbox"/>

(iii)	refused a receipt for a prospectus or other offering document, denied any application for listing or quotation or any other similar application, or issued an order that denied the issuer the right to use any statutory prospectus or registration exemptions?	<input type="checkbox"/>	<input type="checkbox"/>
(iv)	issued a notice of hearing, notice as to a proceeding or similar notice against the issuer?	<input type="checkbox"/>	<input type="checkbox"/>
(v)	commenced any other proceeding of any kind against the issuer, including a trading halt, suspension or delisting of the issuer, in connection with an alleged or actual contravention of an SRA's or SRE's rules, regulations, policies or other requirements, but excluding halts imposed (i) in the normal course for proper dissemination of information, or (ii) pursuant to a business combination, reverse takeover or similar transaction involving the issuer that is regulated by an SRE or SRA, including a qualifying transaction, reverse takeover or change of business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended from time to time)?	<input type="checkbox"/>	<input type="checkbox"/>
(vi)	entered into a settlement agreement with the issuer in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct by the issuer, or any other violation of securities legislation or the rules, by-laws or policies of an SRE?	<input type="checkbox"/>	<input type="checkbox"/>

Yes	No
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9. Civil proceedings

If you answer "YES" to any item in Question 9, you must provide complete details in an attachment.

A. Judgment, garnishment and injunctions

Has a court in any Canadian or foreign jurisdiction:

- | | | | |
|-----|--|--------------------------|--------------------------|
| (i) | rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>you</u> in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct? | <input type="checkbox"/> | <input type="checkbox"/> |
|-----|--|--------------------------|--------------------------|

	(ii) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>an issuer</u> , of which you are currently or have ever been a director, officer, promoter, insider or control person in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
B.	Current claims		
	(i) Are <u>you</u> now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that is now subject, in any Canadian or foreign jurisdiction, to a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
C.	Settlement agreement		
	(i) Have <u>you</u> ever entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that has entered into a settlement agreement, in any Canadian or foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct?	<input type="checkbox"/>	<input type="checkbox"/>

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

CERTIFICATE AND CONSENT

I, _____ hereby certify that:

(Please Print – Name of Individual)

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

Date

Signature of Person Completing this Form

SCHEDULE 1 PERSONAL INFORMATION COLLECTION POLICY

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

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

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

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

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

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

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

individual has qualifications or relevant experience that are equivalent to, or more relevant in the circumstances than, the prescribed requirements.

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

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

Proficiency

43. Section 43 [*Proficiency*] requires an individual of a restricted dealer funding portal to have the education, training and experience, among other things, to understand the structure, features and risks of the distribution. At a minimum, to comply with the proficiency requirements set out in section 43 [*Proficiency*], we expect a restricted dealer funding portal to review and assess the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the issuer's articles of incorporation and other constating documents. The restricted dealer funding portal must be able to evidence their review of the information provided by the issuer. If the information provided by the issuer is not sufficient to enable the restricted dealer funding portal to understand the structure, features and risks of the distribution, the funding portal must make further inquiries with the issuer to satisfy the proficiency requirement.

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

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

MISCELLANEOUS

Resale of securities distributed under the crowdfunding prospectus exemption

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

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

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

Annex A7

Companion Policy 45-108CP
Crowdfunding

Companion Policy 45-108CP
Crowdfunding

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Resale of securities distributed under the crowdfunding prospectus exemption

PREAMBLE TO COMPANION POLICY

Purpose of this Companion Policy

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

The Instrument provides

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

References to the Instrument

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

Models of crowdfunding

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

- (a) the donation model, which is the practice of the crowd donating to a project or venture in exchange for nothing of tangible value;
- (b) the reward model, which is the practice of the crowd donating to a project or venture in exchange for some tangible reward, perk or benefit;
- (c) the pre-purchase model, which is the practice of the crowd donating to a project or venture in exchange for a future tangible reward, such as a consumer product; and

- (d) the securities-based model, which is the practice of the crowd investing in an issuer and its business in exchange for the issuer’s securities, which are often equity securities but may include other types of securities, including debt securities.

Applicability of securities legislation

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

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

Securities-based and non-securities-based crowdfunding

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

All distributions and other trades are subject to securities legislation

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

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

Multi-jurisdictional distributions

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

PART 1 DEFINITIONS AND INTERPRETATION

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

Terms defined or interpreted in other instruments

- (1) Director – The term “director” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.

- (2) Officer – The term “officer” referred to in Part 3 is defined in the provincial securities legislation of each of the participating CSA members.
- (3) Principal Regulator – A registered dealer funding portal’s principal regulator generally will be determined in accordance with section 4A.1 of Multilateral Instrument 11-102 *Passport System*. This means that the principal regulator will usually be the securities regulatory authority or regulator in the jurisdiction where the funding portal’s head office is located.
- (4) Funding portal – There are two types of funding portals that can facilitate distributions of securities in reliance on the crowdfunding prospectus exemption:
- (a) a funding portal registered in the category of restricted dealer and defined in the Instrument as a restricted dealer funding portal; or
 - (b) a funding portal registered in the category of investment dealer or exempt market dealer and defined in the Instrument as a registered dealer funding portal.

(a) *Restricted dealer funding portal*

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

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

(b) *Registered dealer funding portal*

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

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

PART 2

CROWDFUNDING PROSPECTUS EXEMPTION

Division 1: Distribution requirements

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

Crowdfunding prospectus exemption

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

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

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

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

prospectus exemption in the same calendar year. In Ontario, an investor that is a permitted client is not subject to an investment limit.

- 5.(2) The crowdfunding prospectus exemption is not available to an issuer if any of the conditions in subsection 5(2) [*Crowdfunding prospectus exemption*] apply. For example, an issuer that uses the proceeds to invest in, merge with or acquire an unspecified business, commonly referred to as a blind pool, is excluded from using the crowdfunding prospectus exemption.

Conditions for closing of the distribution

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

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

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

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

Liability for misrepresentation – reporting issuers

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

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

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

Liability for untrue statement – non-reporting issuers

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

Advertising and general solicitation

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

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

Commissions or fees

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

Division 2: Ongoing disclosure requirements for non-reporting issuers

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

Non-reporting issuers are required to make available to the purchaser certain ongoing disclosure documents. These include annual financial statements, notices disclosing the use of proceeds, and in New Brunswick, Nova Scotia and Ontario, notices of specified key events. We anticipate issuers generally will choose to make

these documents available to purchasers electronically. However, an issuer may also make these documents available in paper format. We expect an issuer to take reasonable steps to ensure that all purchasers receive or have access to the documents promptly.

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

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

Annual financial statements

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

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

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

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

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

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

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

Annual disclosure of use of proceeds

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

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

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

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

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

Notice of specified key events

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

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

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

PART 3 REQUIREMENTS FOR FUNDING PORTALS

Division 1: Registration requirements, general

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

Restricted dealer funding portal

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

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

Registered dealer funding portal

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

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

Division 2: Registration requirements, funding portals

General

Although a funding portal enters into a contractual relationship with an eligible crowdfunding issuer, the funding portal also has a relationship with a purchaser investing through the funding portal. These purchasers are clients of the funding portal. A funding portal and its registered individuals must deal fairly, honestly and in good faith with a purchaser. This is consistent with the obligation imposed on all registered dealers and advisers under securities legislation. As a registrant, we expect a funding portal to follow the letter of the law and also the spirit of the law. For example, a funding portal that requires a purchaser to sign an agreement that contains an inappropriate waiver of liability or that attempts to transfer its responsibilities to the purchaser, is engaging in conduct that is not consistent with the principle of dealing fairly, honestly and in good faith with a purchaser.

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

Restricted dealing activities

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

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

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

Advertising and general solicitation

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

A funding portal is not permitted to recommend or endorse a particular issuer or distribution, which includes accepting payment or other benefits from an issuer to highlight or showcase the issuer or its distribution. Such conduct would be considered to be inconsistent with the restriction in section 24 [*Advertising and general solicitation*]. However, a funding portal may advertise its business operations. For example, a funding portal may advertise that it is in the business of distributing securities under the crowdfunding prospectus exemption.

Access to funding portal

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

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

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

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

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

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

Issuer access agreement

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

Obligation to review materials of eligible crowdfunding issuer

- 27.(2) If, after reviewing the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the personal information forms, the results of the criminal record and background checks, and any other information about the issuer or the distribution made available to the funding portal or of which the funding portal is aware, the funding portal determines the disclosure in the crowdfunding offering document and other materials referred to in subsection 12(1) [*Additional distribution materials*] is incorrect, incomplete or misleading, it must require the issuer to correct, complete or clarify the disclosure in the crowdfunding offering document and other permitted materials prior to posting on the funding portal's online platform. For example:
- (a) if an issuer's constating documents indicate that the "common shares" contain restrictions on voting or contain redemption rights that allow the issuer to redeem the shares in certain circumstances, or that insiders or promoters of the issuer hold another class of securities that have multiple votes, and the crowdfunding offering document does not contain this disclosure, the funding portal must not grant the issuer access to the funding portal for the purposes of distributing its securities until it is satisfied that the crowdfunding offering document accurately

describes the securities being distributed, the capital structure of the issuer, including the percentage ownership of the outstanding securities of the issuer held by the insiders and promoters, and any rights not otherwise available to purchasers;

- (b) if an issuer is part of an issuer group, and the issuer's interest in the business or the assets of the business are owned through one or more subsidiaries, the funding portal should understand the features and risks of the capital structure of the issuer group and assess whether the issuer's disclosures adequately disclose these risks.

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

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

Denial of issuer access and termination

- 28.(1) Funding portals are expected to play a gatekeeper role in attempting to ensure that issuers comply with the requirements of the crowdfunding prospectus exemption and to maintain the integrity of the capital markets. We expect funding portals to have policies and procedures in place to carry out their gatekeeper function, including measures to reduce the risk of fraud in securities-based crowdfunding. These policies and procedures should include the steps a funding portal follows to review and assess the issuer, the distribution, the crowdfunding offering document and the materials described in subsection 12(1) [*Additional distribution materials*]. At a minimum, we expect a funding portal to:
- establish the identity of an issuer, such as obtaining and reviewing the issuer's articles of incorporation or other constating documents;
 - determine the nature of the issuer's business; and
 - review the responses provided in Form 45-108F5 and the results of the criminal record and background checks.

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

We expect a funding portal to deny access to an issuer if based on the information the funding portal has, it appears to the funding portal that the issuer has not satisfied the conditions in subsection 28(1) [*Denial of issuer access and termination*]. For example, if it appears to the funding portal that upon a good faith determination the business of the issuer may not be conducted with integrity, including where the funding portal believes the issuer or the distribution is part of a scheme to defraud investors,

the funding portal must deny the issuer access. If certain executive officers of the issuer reside in a jurisdiction where background checks and securities and disciplinary enforcement history checks are not readily available to the funding portal, it may determine that it is unable to assess whether the business of the issuer will be conducted with integrity, and thus must deny the issuer access to its platform.

Monitoring purchaser communications

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

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

Online platform acknowledgement

33. Prior to a person or company entering a funding portal's online platform, the funding portal must take reasonable steps to confirm that the person or company understands the risks of investing in securities posted on the funding portal and is advised whether they will or will not receive suitability advice depending on the type of dealer operating the funding portal. We expect that these acknowledgements will be completed electronically through the funding portal and that the funding portal's books and records will include evidence that the funding portal has satisfied this obligation.

Purchaser requirements prior to purchase

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

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

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

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

Division 3: Additional requirements, restricted dealer funding portal

Prohibition on providing recommendations or advice

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

Some activities may be considered *bona fide* activities of a restricted dealer funding portal provided that a reasonable person would not construe those activities to be the restricted dealer funding portal providing a recommendation or advice to a purchaser. These activities could include:

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

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

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

Permitted dealing activities

41. Section 41 [*Permitted dealing activities*] provides that a restricted dealer funding portal and a registered individual of the restricted dealer funding portal may only act as an intermediary in connection with a distribution of securities made in reliance on the crowdfunding prospectus exemption and, except in Ontario, a distribution of securities made in reliance on a start-up crowdfunding registration and prospectus exemptive relief order granted by a securities regulatory authority or regulator. This means that a restricted dealer funding portal is not permitted to engage in a broader range of dealing or advising activities, such as
- (a) facilitating distributions of securities in reliance on other prospectus exemptions,
 - (b) facilitating resales of securities acquired by a purchaser to accredited investors or to other purchasers who are eligible to purchase securities on a prospectus-exempt basis, or
 - (c) providing underwriting or underwriting-related services to issuers except as otherwise permitted by the Instrument.

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

Chief Compliance Officer

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

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

The regulator may grant an exemption from any of the education requirements in paragraphs 42(a) and (b) [*Chief compliance officer*] for the CCO of a restricted dealer funding portal if it is satisfied that the

individual has qualifications or relevant experience that are equivalent to, or more relevant in the circumstances than, the prescribed requirements.

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

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

Proficiency

43. Section 43 [*Proficiency*] requires an individual of a restricted dealer funding portal to have the education, training and experience, among other things, to understand the structure, features and risks of the distribution. At a minimum, to comply with the proficiency requirements set out in section 43 [*Proficiency*], we expect a restricted dealer funding portal to review and assess the crowdfunding offering document, the materials referred to in subsection 12(1) [*Additional distribution materials*], the issuer's articles of incorporation and other constating documents. The restricted dealer funding portal must be able to evidence their review of the information provided by the issuer. If the information provided by the issuer is not sufficient to enable the restricted dealer funding portal to understand the structure, features and risks of the distribution, the funding portal must make further inquiries with the issuer to satisfy the proficiency requirement.

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

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

MISCELLANEOUS

Resale of securities distributed under the crowdfunding prospectus exemption

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

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

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

Annex B

Amending Instrument for National Instrument 45-102 *Resale of Securities*

**Amendments to
National Instrument 45-102 *Resale of Securities***

- 1. *National Instrument 45-102 Resale of Securities is amended by this Instrument.***
- 2. *Appendix D is amended***
 - (a) *by adding “1.” before “Except in Manitoba”, and***
 - (b) *by adding before “Transitional and Other Provisions” the following:***
 - 2. In Ontario, Québec, New Brunswick and Nova Scotia, the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*] of Multilateral Instrument 45-108 *Crowdfunding*.**
- 3. This Instrument comes into force on January 25, 2016.**

Annex C

Summary of Notable Changes to the March 2014 45-108 Materials

Summary of Notable Changes to the March 2014 45-108 Materials

Crowdfunding exemption

We have made certain changes to provisions relating to the crowdfunding exemption, specifically the following:

- investment limits,
- facilitating investments by lead investors,
- eligibility of issuers to use the crowdfunding exemption,
- aggregate minimum proceeds,
- point of sale disclosure,
- financial statements,
- notice of discontinuation of the issuer's business, change in industry or change of control, and
- investors' right of withdrawal.

Investment limits

(a) Investment limits for non-accredited investors

The March 2014 45-108 materials provided that an investor would not be permitted to invest:

- more than \$2,500 in a single investment under the crowdfunding exemption, or
- more than \$10,000 in total under the crowdfunding exemption in a calendar year.

We continue to think that investment limits for non-accredited investors are a critical investor protection measure. Ontario has retained both of these investment limits for a non-accredited investor. The other participating jurisdictions have retained the \$2,500 limit for a single investment by a non-accredited investor under the crowdfunding exemption but are not imposing an annual investment limit.

(b) Investment limits for accredited investors in the 45-108 crowdfunding regime

The March 2014 45-108 materials provided that an accredited investor that purchased securities under the crowdfunding exemption would be subject to the same investment limits as other investors. The March 2014 45-108 materials did, however, allow an issuer to distribute securities under another prospectus exemption such as the accredited investor exemption simultaneously with the distribution of securities under the crowdfunding exemption.

We specifically requested comment on whether an accredited investor should be permitted to make larger investments under the crowdfunding exemption.

Based on the comments we received, we have made the following revisions:

- we will impose a \$25,000 per investment limit, and in Ontario, will also impose a \$50,000 annual limit for an accredited investor that is not a permitted client, and
- in Ontario, we will not place investment limits on an investor that is a permitted client.

We think that higher investment limits for an accredited investor, and in Ontario, no investment limits for a permitted client, are appropriate given that these investors either have the ability to withstand financial loss or the resources to obtain financial advice. A tiered approach to investment limits will allow accredited investors and permitted clients to invest larger amounts alongside retail investors, which may assist issuers to raise the desired amount of capital as set out in the crowdfunding offering document, and may potentially generate higher revenues for funding portals. This, in turn, may contribute to both the efficacy of crowdfunding as a tool for raising capital for early-stage businesses and the economic viability of funding portals.

(c) Compliance with investment limits

In the March 2014 45-108 materials, securities could not be distributed to a purchaser under the crowdfunding exemption if the amount invested exceeded the prescribed investment limits.

In the final Rule, we have maintained these requirements to support compliance with the investment limits. In addition, we now require as a condition of closing a distribution under the crowdfunding exemption:

- in the participating jurisdictions other than Ontario, confirmation and validation that the purchaser is an accredited investor if the acquisition cost is greater than \$2,500, and
- in Ontario, a confirmation from the investor of their investor status and that the investor has purchased securities within the applicable investment limits.

Facilitating investments by lead investors

Lead investors can play a valuable role in crowdfunding as they may have the incentive and the capability to provide valuable signalling to other investors. We have therefore introduced two measures that will facilitate lead investors carrying out these functions. First, as noted above, we have introduced:

- higher investment limits for accredited investors, and
- in Ontario, no investment limits for investors that are permitted clients.

Second, we have amended the Rule to remove the requirement that all securities distributed by an issuer during the crowdfunding distribution period have the same price, terms and conditions. An issuer will now be permitted to distribute securities under other prospectus exemptions during this period with different prices, terms and conditions from those being distributed under the crowdfunding exemption. This change provides flexibility for an issuer and may foster a lead investor role in a crowdfunding distribution where the lead investor can provide skills and expertise in management for the benefit of all investors. Depending on the nature and timing of the concurrent distribution, the crowdfunding offering document may require amendment to reflect the concurrent distribution.

An accredited investor that acts as a lead investor should be mindful of the potential registration requirements that arise if the lead investor engages in trading or advising activities.

Eligibility of issuers to use the crowdfunding exemption

(a) Real estate issuers

The March 2014 45-108 materials prohibited non-reporting real estate issuers from using the crowdfunding exemption. A real estate issuer was defined as a real estate investment trust, a mortgage investment entity, or a person that primarily invests in, or develops, real estate, or derives its revenues primarily from investments in real estate. We sought specific comment on whether this restriction was appropriate. Several commenters thought it would be inappropriate to prohibit a particular industry sector from being able to rely on the

crowdfunding exemption and that it should therefore be available to all real estate issuers. Commenters noted that one industry is not necessarily riskier than another.

After considering the comments received, we removed the prohibition on non-reporting real estate issuers from distributing their securities under the crowdfunding exemption. We will monitor the industry of the issuers which use the crowdfunding exemption as part of our exempt market oversight.

(b) Jurisdiction of incorporation or organization of principal operating subsidiary

In the March 2014 45-108 materials, both the issuer, and if applicable, the parent and the principal operating subsidiary of the issuer were required to be incorporated or organized under the laws of Canada or a jurisdiction of Canada. The rationale for these restrictions was two-fold:

- to avoid concerns associated with an issuer in a foreign jurisdiction which may not have the comparable investor protections in its constating statute as are found in Canadian legislation, and
- to facilitate capital raising for Canadian issuers, one of the key objectives of the crowdfunding initiative.

We continue to think that requiring that an issuer be incorporated or organized under the laws of Canada or a jurisdiction of Canada, is consistent with our objectives.

We have, however, permitted the principal operating subsidiary of an issuer to be incorporated or organized under the laws of Canada, a jurisdiction of Canada, the laws of the United States, or a jurisdiction of the United States to be an eligible crowdfunding issuer. We think this will provide greater flexibility for issuers in structuring their affairs without compromising investor protection or our objectives as described above.

Aggregate minimum proceeds

In the March 2014 45-108 materials, a distribution made in reliance on the crowdfunding exemption could not be completed unless the minimum amount of funds to be raised, as specified in the crowdfunding offering document, had been subscribed for and, at the time of the completion of the offering, the issuer had financial resources sufficient to achieve the next milestone, or to carry out the business activities, set out in its written business plan.

We have revised the Rule to require that, as a condition of closing, an issuer must have raised aggregate minimum proceeds that are sufficient to accomplish the business objectives of the issuer that are described in the crowdfunding offering document. The aggregate minimum proceeds may be raised through one or both of: (i) the distribution; and (ii) any concurrent distributions by any member of the issuer group provided the proceeds from those distributions are unconditionally available to the issuer at the time of closing of the distribution. In the crowdfunding offering document, the issuer is required to describe each business objective, and the estimated time period and costs to accomplish it.

We think that requiring an issuer to have raised sufficient proceeds to accomplish its business objectives and to disclose each objective and the time period and costs associated with accomplishing the objective will provide significant protection to investors and meaningful information on which to base an investment decision.

Point of sale disclosure

(a) Streamlined crowdfunding offering document

We have streamlined the disclosure requirements in the crowdfunding offering document and have more closely aligned them with the requirements for an offering document used under the start-up crowdfunding exemptions. We think this will make the document easier for investors to read and understand while still requiring issuers to provide investors with all of the information they need to know about the issuer and its business before investing. It may also be more cost-effective and faster for issuers to prepare.

(b) Forms of certificate for reporting issuers versus non-reporting issuers

In the March 2014 45-108 materials, an issuer was required to certify that the crowdfunding offering document did not contain a misrepresentation. We continue to require this certification for reporting issuers.

However, we have amended the certificate requirement for non-reporting issuers. A non-reporting issuer will now be required to certify that its crowdfunding offering document does not contain an untrue statement of material fact.

We think that this standard of liability will allow a start-up or SME to provide a more streamlined crowdfunding offering document, which will provide all relevant information to investors and provide adequate investor protection. Further, this standard largely aligns with the standard of liability in the start-up crowdfunding exemption, which only applies to non-reporting issuers.

(c) Risk acknowledgement form

Investors are provided with a RAF to complete before they make their investment. We have revised the RAF to closely align with the equivalent form used in the start-up crowdfunding exemptions. We think the revised RAF will better reinforce the risks of a potential investment to an investor, including that the investor may lose his, her or its entire investment. The revised RAF requires an investor to positively confirm that the investor has read and understood the risk warnings and the information in the crowdfunding offering document.

Financial statements

In the March 2014 45-108 materials, a non-reporting issuer's financial statements were required to be reviewed by an independent public accounting firm if the issuer had not raised more than \$500,000 under the crowdfunding exemption or any other prospectus exemption since its formation or expended more than \$150,000 since that time. The issuer's financial statements were required to be audited if both of those thresholds were exceeded.

We have simplified the thresholds and slightly raised the threshold amounts. A non-reporting issuer's financial statements must now be reviewed by an independent public accounting firm or be audited if the issuer has raised \$250,000 or more but less than \$750,000 under one or more prospectus exemptions since its formation, and be audited if it has raised \$750,000 or more.

We think these thresholds strike an appropriate balance between providing investors with reliable financial information and not imposing a disproportionate financial burden on start-ups and SMEs that have limited financial resources to pursue their business.

Notice of discontinuation of the issuer's business, change in industry or change of control

The March 2014 45-108 materials contemplated that non-reporting issuers would be required to provide notice to investors of the following specified events within 10 days of the event occurring:

- a fundamental change in the nature, or a discontinuation, of the issuer's business,
- a significant change to the issuer's capital structure,
- a major reorganization, amalgamation or merger involving the issuer,
- a take-over bid, issuer bid or insider bid involving the issuer,
- a significant acquisition or disposition of assets, property or joint venture interests, and
- changes to the issuer's board of directors or executive officers, including the departure of the issuer's chief executive officer, chief financial officer, chief operating officer or president or persons acting in similar capacities.

The final amendments require that in New Brunswick, Nova Scotia and Ontario, non-reporting issuers provide notice to investors of a streamlined list of key events within 10 days of the event occurring, as follows:

- a discontinuation of the issuer's business,
- a change in the issuer's industry, and
- a change of control of the issuer.

The final amendments also prescribe a form – Form 45-108F4 *Notice of Specified Key Events* – that sets parameters as to the nature and comprehensiveness of the information that is required to be provided to investors.

Investors' right of withdrawal

The March 2014 45-108 materials provided that an issuer that offers securities under the crowdfunding exemption must provide an investor with a contractual right to withdraw an offer or agreement to purchase the security by delivering a notice to the issuer within at least 48 hours prior to the date of completion of the distribution disclosed in the issuer's crowdfunding offering document.

The Rule has been amended such that the purchaser will have a right of withdrawal that expires 48 hours after the date of the agreement to purchase securities and any subsequent amendment to the crowdfunding offering document. This 48-hour right of withdrawal will provide the purchaser with a "cooling off" period to consider the disclosure provided and reflect on his or her investment decision while also providing the issuer certainty about the amount of its offering that has been subscribed.

Funding Portal Requirements

We have made certain changes to provisions relating to the registration regime for funding portals, specifically the following:

- use of the crowdfunding exemption by registrants,
- custodial requirements,
- restricted dealer funding portal requirements,
- access by issuers to a funding portal's online platform,
- access by investors to the funding portal's online platform, and
- operational requirements.

Use of the crowdfunding exemption by registrants

In the March 2014 45-108 materials, the only entity that could distribute securities under the crowdfunding exemption was a funding portal registered solely as a restricted dealer, for the sole purpose of distributing securities under the crowdfunding exemption. The entity could not be registered in any other registration category. Exempt market dealers and other registered firms were not permitted to distribute securities under the proposed crowdfunding exemption.

Based on feedback we received, the final Rule allows exempt market dealers and investment dealers to distribute securities in reliance on the crowdfunding exemption. These firms are required to comply with all of their obligations as an exempt market dealer or as an investment dealer, as the case may be, including conducting client-specific know-your-client, know-your product and suitability, in addition to the applicable requirements and restrictions set out in the Rule, such as the restriction on advertising and solicitation.

However, a funding portal registered as a restricted dealer is a specialized type of restricted dealer that can only rely on the crowdfunding exemption, and other than in Ontario, on the start-up crowdfunding exemption, to facilitate distributions of simple securities. In light of the limited activities of the restricted dealer funding portal, they will not be required to conduct a suitability assessment for the investor and will not assess the merits or expected returns of an investment. Rather, the restricted dealer funding portal will provide a gatekeeper role focused on compliance by issuers with the requirements of the Rule. Considering the limited activities of the restricted dealer funding portal, we continue to believe that a funding portal that is registered as a restricted dealer in accordance with the Rule should not be registered in any other registration category, and, in Ontario, cannot be affiliated with another registered firm.

Custodial requirements

The March 2014 45-108 materials prohibited a funding portal from holding, handling or having access to a purchaser's funds or assets. The funding portal was required to arrange for a Canadian financial institution:

- (a) to hold in trust all funds or consideration received from a potential purchaser in connection with a distribution of a security under the crowdfunding exemption until midnight on the second business day after the purchaser agreed to purchase the security, and
- (b) to return all funds or consideration to the purchaser promptly if the purchaser exercised the right to cancel the agreement to purchase the security.

Based on the comments we received, we have amended the restriction as set out in the March 2014 45-108 materials such that the restricted dealer funding portal will now be permitted to hold, handle, control or have access to purchaser funds or assets as long as they maintain minimum capital and fidelity bond insurance. We believe that investor funds and assets will be better protected if the funding portal is subject to capital and insurance requirements.

Restricted dealer funding portal requirements

(a) Permitted activities

In the March 2014 45-108 materials, a funding portal was only allowed to distribute securities under the crowdfunding exemption.

We have retained this restriction in Ontario as the start-up crowdfunding exemptions is not available in Ontario. However, in the participating jurisdictions other than Ontario, a funding portal will be allowed to act as an intermediary in connection with securities offerings pursuant to both the crowdfunding exemption and the start-up crowdfunding exemptions.

(b) Chief compliance officer

In the March 2014 45-108 materials, a funding portal was required to designate an individual to be the Chief Compliance Officer (CCO). The individual designated by the funding portal was required to comply with the proficiency requirements for an exempt market dealer CCO.

We have retained the requirement for a CCO. However, a restricted dealer funding portal is a specialized type of restricted dealer that can only rely on the crowdfunding exemption, and other than in Ontario, on the start-up crowdfunding exemptions, to facilitate distributions of simple securities. Additionally, the restricted dealer funding portal will not be required to conduct a suitability assessment for the investor and will not assess the merits or expected returns of an investment. In light of the specialized nature of restricted dealer funding portals and their limited permitted dealing activities, the CCO proficiency requirements for a restricted dealer funding portal has been amended such that the individual may have 12 months of experience and training that a reasonable person would consider necessary to perform the activities of a CCO for a restricted dealer funding portal, instead of the experience requirements for an exempt market dealer CCO. We believe this change strikes an appropriate balance between sufficient proficiency of a restricted dealer funding portal CCO and the specialized nature of a restricted dealer funding portal and its limited permitted dealing activities.

Access by issuers to a funding portal's online platform

(a) Background checks

In the March 2014 45-108 materials, we required a funding portal to obtain from each director, executive officer, and promoter of the issuer a completed personal information form that contained substantially the same information as set out in Appendix A to National Instrument 41-101 *General Prospectus Requirements*. The funding portal was required to review the forms and conduct criminal records and background checks on the issuer and its directors, executive officers, and promoters. We also required that the funding portal, as agent of the issuer, file a copy of the completed personal information forms and the results of the criminal records and other background checks with the principal regulator.

We continue to require funding portals to carry out this gatekeeper function. However, since funding portals are responsible for obtaining personal information forms, ensuring that criminal record and background checks are conducted, and reviewing this information, we no longer require funding portals to file a copy of the completed personal information forms and the results of criminal record and other background checks with the principal regulator. These documents will now be retained by the funding portal and will be provided to the securities regulatory authorities or regulators upon request.

Finally, we developed a new form – Form 45-108F5 *Personal Information Form and Authorization to Collect, Use and Disclose Personal Information* – for the crowdfunding regime which reflects the funding portals' gatekeeper role.

(b) Denial of issuer access

In the March 2014 45-108 materials, a funding portal was required to deny an issuer access to the funding portal's online platform if the funding portal had made a good faith determination that the issuer or the offering was a fraud, or that the issuer's offering documents or other materials contain a statement or information that is false, deceptive, misleading or that constitutes a misrepresentation, or if the business of the issuer may not be conducted with integrity and in the best interests of security holders, or the issuer is not complying with the Rule. In addition, a funding portal was required to ensure that the issuer's crowdfunding

offering document disclosed certain information, including prior bankruptcies or insolvencies, cease trade or other similar orders, and certain penalties and sanctions.

We have maintained the requirement that a funding portal deny access where it makes a good faith determination that the business of the issuer may not be conducted with integrity; however we have removed the requirement to make a good faith determination that the issuer or the distribution is fraudulent. We believe that investors will continue to be protected against potential fraudulent distributions since a funding portal that makes a good faith determination that the issuer or the distribution is fraudulent or the business of the issuer may not be conducted in the best interests of security holders will also conclude that the business of the issuer may not be conducted with integrity. As such, the standard that the business of the issuer may not be conducted with integrity, will encompass the fraudulent conduct.

Access by investors to the funding portal's online platform

(a) Required online platform disclosure

In the March 2014 45-108 materials, a funding portal was required to take reasonable steps to ensure that potential purchasers accessing the funding portal's online platform understand the high risk nature of an investment made under the crowdfunding exemption, and to include on its online platform the following prominent disclosure:

- no securities regulatory authority or regulator has approved or expressed an opinion about the securities offered on the registered funding portal's online platform,
- "A crowdfunding investment is highly risky. You may lose all your investment and you may not be able to sell any securities you purchase.", and
- a description of all compensation, including fees, costs and other expenses that the registered funding portal may charge to, or impose on, an issuer or purchaser.

We have retained these requirements but have amended the Rule so that, prior to allowing a person or company entry to its online platform, a funding portal must require the person or company to acknowledge:

- that the person or company may receive limited ongoing information about the issuer and an investment made through the funding portal, and
- that the person or company is entering an online platform operated by a funding portal that is either (a) registered in the category of restricted dealer and will not provide advice about the suitability of the purchase of the security; or (b) registered in the category of investment dealer or exempt market dealer and is required to provide advice about the suitability of the purchase of the security.

We believe these requirements will better reinforce the risks of a potential investment to an investor and inform the investor whether they will receive suitability advice depending on the type of dealer operating the funding portal.

(b) Dispute resolution services

In the final version of the Rule, we have clarified that a funding portal registered in the restricted dealer category is not required to make available the independent dispute resolution services of the Ombudsman for Banking Services and Investments (**OBSI**) for clients of the restricted dealer funding portal. The CSA continues to remain supportive of the services provided by OBSI; however, given the limited scope of activities of the restricted dealer funding portal, including that it does not provide suitability advice or make recommendations, we believe that the costs associated with membership in OBSI would outweigh the benefits that may flow to investors. We expect complaints regarding restricted dealer funding portals will be

submitted to the regulators. The participating jurisdictions intend to closely monitor complaints relating to restricted dealer funding portals.

Funding portals registered in the exempt market dealer or investment dealer category continue to be subject to the requirement that OBSI be made available to clients of those firms.

Operational Requirements

(a) Monitoring communications on the funding portal's online platform

In the March 2014 45-108 materials, where a funding portal offered a discussion board or other means of communication between investors and/or between an issuer and its investors, the funding portal was required to monitor the postings in order to confirm that the issuer was not making any statement or providing information which is inconsistent with the crowdfunding offering document or is not in compliance with the Rule. The funding portal was also required to remove any material that it deemed inappropriate, or that raised investor protection concerns.

In the final Rule, we have clarified this requirement such that the funding portal must remove any statement or information which is inconsistent with the crowdfunding offering document or is not in compliance with the Rule.

(b) Other operational requirements

In the final version of the Rule, we introduced new requirements that set out:

- when a funding portal must remove from its online platform the crowdfunding offering document and all other permitted materials,
- what actions a funding portal must take when there is an amendment to the crowdfunding offering document and other permitted materials,
- when a funding portal is to return funds or assets received from a purchaser,
- what steps are to be taken by the funding portal prior to a purchaser entering into an agreement to purchase securities, including requirements related to confirmation of an investor's status and the applicable investment limits,
- what information a funding portal is required to deliver to the issuer on the closing of the distribution, and
- when a funding portal may release funds to the issuer.

These requirements are intended to ensure consistent practices between funding portals and issuers in certain areas. These requirements also help facilitate the communication of information between a funding portal and an issuer, particularly as certain information that one party requires may be held by the other party.

Companion policy guidance

We have added further companion policy guidance to 45-108CP in order to clarify certain matters.

Other

We have also:

- included new definitions in the Rule to reflect the above changes,
- revised the companion policy to the Rule to reflect the above changes and clarify certain matters, and
- made certain drafting changes to the provisions.

Annex D

Local Matters

**Amendments to
Nova Scotia Securities Commission Rule 45-501
*Statutory Liability for Misrepresentations in An Offering Memorandum Under Certain Exemptions
From The Prospectus Requirement***

- 1. *Nova Scotia Securities Commission Rule 45-501 Statutory Liability for Misrepresentations in An Offering Memorandum Under Certain Exemptions From The Prospectus Requirement is amended by this Instrument.***
- 2. *Section 2.1 is amended by adding before subsection (b) the following:***
 - (a1) Section 5 of Multilateral Instrument 45-108 *Crowdfunding* if the issuer is a reporting issuer;.
- 3. This Instrument comes into force on January 25, 2016.**

**Blackline Showing Changes To
Nova Scotia Securities Commission Companion Policy 45-501CP to Rule 45-501
*Statutory Liability for Misrepresentations In An Offering Memorandum Under Certain
Exemptions From The Prospectus Requirement***

NOVA SCOTIA SECURITIES COMMISSION

**COMPANION POLICY 45-501CP TO RULE 45-501
STATUTORY LIABILITY FOR MISREPRESENTATIONS IN AN
OFFERING MEMORANDUM UNDER CERTAIN EXEMPTIONS
FROM THE PROSPECTUS REQUIREMENT**

PART 1 APPLICATION

1.1 Introduction

The Rule specifies when the statutory rights of action for misrepresentation in section 138 of the Act will apply to an offering memorandum that has been furnished to a prospective purchaser in connection with a distribution of a security under certain prospectus exemptions.

1.2 Purpose

The purpose of the Policy is to provide guidance on how the Commission interprets or applies certain provisions of Nova Scotia securities laws relating to the provision of an offering memorandum when an issuer relies on a prospectus exemption.

PART 2 INTERPRETATION

2.1 Definitions

In the Policy,

“Act” means the *Securities Act*, R.S.N.S. 1989, chapter 418, as amended;

“CEDC Regulations” means the *Community Economic-Development Corporations Regulations*;

“Commission” means the Nova Scotia Securities Commission;

“MI 45-108” means Multilateral Instrument 45-108 Crowdfunding;

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;

“Nova Scotia securities laws” has the same meaning as in clause 2(1)(aab) of the Act;

“offering memorandum” has the same meaning as in clause 2(1)(ab) of the Act;

“Policy” means Companion Policy 45-501CP to Rule 45-501 Statutory Liability for Misrepresentations in an Offering Memorandum Under Certain Exemptions From the Prospectus Requirement;

“prospectus exemption” means an exemption from the prospectus requirement in section 58 of the Act; and

“Rule” means Rule 45-501 Statutory Liability for Misrepresentations in an Offering Memorandum Under Certain Exemptions From the Prospectus Requirement.

PART 3 OFFERING MEMORANDUM

3.1 Definition of offering memorandum

The Commission is of the view that the phrase “prepared primarily for delivery to and review by a prospective purchaser” in the definition of offering memorandum means the document is prepared in contemplation of soliciting an investment from a prospective purchaser.

3.2 Mandatory and voluntary use of offering memorandum

(1) An issuer must prepare an offering memorandum for use in connection with a distribution made in reliance on the prospectus exemptions in section 2.9 of NI 45-106, [section 5 of MI 45-108](#) and subsection 3(2) of the CEDC Regulations.

(2) There is no requirement to provide an offering memorandum to a prospective purchaser in connection with a distribution made in reliance on a prospectus exemption in:

- (a) section 2.3 of NI 45-106 Accredited investor;
- (b) section 2.5 of NI 45-106 Family, friends and business associates;
- (c) section 2.10 of NI 45-106 Minimum amount investment;
- (d) section 2.19 of NI 45-106 Additional investment in investment funds; or
- (e) clause 77(1)(ah) of the Act.

An issuer may decide to prepare offering material that is delivered voluntarily to a prospective purchaser in connection with a distribution made in reliance on a prospectus exemption referred to in clauses (a) to (e) of this subsection. This offering material may constitute an offering memorandum which is defined generally to mean a document that describes the business and affairs of an issuer that is prepared primarily for delivery to and review by a prospective purchaser under a prospectus exemption.

3.3 Right of action for damages or rescission

(1) Section 138 of the Act describes the rights of action for a misrepresentation in an offering memorandum. Subsection 138(14) of the Act states that section 138 applies only with respect to an offering memorandum that has been furnished to a prospective purchaser in connection with a distribution of a security under a prospectus exemption specified in the regulations for the purpose of that section.

(2) Section 2.1 of the Rule specifies the following prospectus exemptions for the application of the rights in section 138 of the Act for an offering memorandum that has been furnished to a prospective purchaser in connection with a distribution of a security:

(a) one of the following sections of NI 45-106:

- (i) 2.3 Accredited investor;
- (ii) 2.5 Family, friends and business associates;
- (iii) 2.9 Offering memorandum;
- (iv) 2.10 Minimum amount investment;
- (v) 2.19 Additional investment in investment funds;

(a1) section 5 of MI 45-108 if the issuer is a reporting issuer;

(b) subsection 3(2) of the CEDC Regulations; and

(c) clause 77(1)(ah) of the Act.

The rights apply when an offering memorandum is delivered mandatorily in connection with a distribution made in reliance on the prospectus exemption in section 2.9 of NI 45-106, or section 5 of MI 45-108 provided the issuer is a reporting issuer, or subsection 3(2) of the CEDC Regulations, or voluntarily in connection with a distribution made in reliance on a prospectus exemption in section 2.3, 2.5, 2.10 or 2.19 of NI 45-106 or clause 77(1)(ah) of the Act.

(3) An offering memorandum delivered in connection with a distribution of a security made otherwise than in reliance on the prospectus exemptions referred to in subsection (2) does not trigger the rights referred to in section 138 of the Act.

3.4 Content of offering memorandum

(1) Other than an offering memorandum delivered in connection with a distribution made in reliance on the prospectus exemption in section 2.9 of NI 45-106, section 5 of MI 45-108 or subsection 3(2) of the CEDC Regulations and subject to subsection (2), Nova Scotia securities laws generally do not prescribe the content of an offering memorandum. The decision relating to the appropriate disclosure in an offering memorandum generally rests with the issuer, the selling security holder and their advisers.

(2) Under subsection 65(3) of the Act, an offering memorandum must contain a statement of the rights described in section 138 of the Act and a statement that these rights are in addition

to any other right or remedy available at law to the purchaser and must describe the time limitations in subsection 146(2) of the Act for enforcing a right under section 138 of the Act.

3.5 Delivery of offering memorandum to the Director

(1) Subsection 77(3) of the Act requires two copies of an offering memorandum that is voluntarily furnished to a purchaser in connection with a distribution under section 2.3, 2.5, 2.10 or 2.19 of NI 45-106 to be delivered to the Director concurrently with or before the date upon which a report of trade is required to be filed with the Director under Part 6 of NI 45-106.

(2) Under subsection 2.9(17) of NI 45-106, an issuer must file with the Director a copy of an offering memorandum delivered under section 2.9 of NI 45-106 within 10 days of the distribution under the offering memorandum.

(3) Under clause 77(1B)(b) of the Act, a co-operative must file with the Director a copy of an offering memorandum that is sent or delivered to a member of a co-operative or a purchaser in connection with a distribution under clause 77(1)(ah) of the Act, other than a distribution referred to in subsection 77(1A) of the Act, at least 10 days before the first trade of securities offered under the offering memorandum.

(4) Prior to an offering of securities under the CEDC Regulations, the Director must issue a letter of non-objection to an offering document prepared in accordance with Form 1 of the CEDC Regulations. The offering document would be an offering memorandum by definition. The offering document is pre-filed with the Director for review and non-objection.

(5) Under subsection 15(2) of MI 45-108, an issuer must file with the Director a copy of a crowdfunding offering document, which is an offering memorandum by definition, and other materials referred to in paragraphs 12(1)(a) and (c) of MI 45-108 at the time the issuer files a report of exempt distribution and no later than 10 days after the closing of the distribution.

3.6 Review of offering memorandum

(1) An offering memorandum delivered to the Director under subsection 77(3) or clause 77(1B)(b) of the Act, or subsection 15(2) of MI 45-108 is not generally reviewed or commented on by Commission staff. If Commission staff becomes aware that an offering memorandum fails to disclose material information relating to a security that is the subject of a distribution, Commission staff may consider remedial action.

(2) An offering memorandum filed under subsection 2.9(17) of NI 45-106 by an issuer with its head office in Nova Scotia is reviewed by Commission staff under the monitoring program described in Notice No. 45-705 (Amendment) In the Matter of National Instrument 45-106 Capital Raising Exemption Monitoring Program. If there are substantial deficiencies in the offering memorandum, Commission staff may consider remedial action.

(3) An offering memorandum filed under the CEDC Regulations is fully reviewed by Commission staff.

3.7 Preliminary offering material

(1) The Commission cautions against providing preliminary offering material to a prospective purchaser before furnishing a “final” offering memorandum unless the offering material contains a description of the rights referred to in section 138 of the Act in situations when the rights apply.

(2) The CEDC Regulations govern the use of preliminary offering material for an offering of securities under subsection 3(2) of the CEDC Regulations.

The changes become effective on January 25, 2016.