BY ELECTRONIC MAIL:

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June 20, 2014

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumers Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Office of the Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Office of the Superintendent of Securities, Nunavut

Attention:

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

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Denise Weeres
Manager, Legal, Corporate Finance
Alberta Securities Commission
250-5th Street S.W.
Calgary, Alberta, T2P 0R4

Dear Sirs / Mesdames:

Re: Proposed Amendments to Prospectus Exemptions in National Instrument 45-106, OSC Rule 45-501, Proposed MI 45-108 and related Companion Policies

We are writing to provide you with the comments of the Members of The Investment Funds Institute of Canada ("IFIC") with respect to the proposed amendments to National Instruments 45-106, OSC Rule 45-501, proposed Multilateral Instrument 45-108 and related Companion Policies and consequential amendments (collectively, the "Proposed Amendments"), which were concurrently published in various forms by the Canadian Securities Administrators (`CSA`) jurisdictions on March 20, 2014.

Our letter is addressed to all CSA securities commissions collectively as our comments relate to the regulatory regime that will result from the various Proposed Amendments and whether the amendments properly advance the stated regulatory objectives.

As we have noted in previous submissions regarding the exempt market, although the majority of our Members' business operations are in the retail investment fund area, in accordance with the full prospectus product disclosure and participant registration, compliance and oversight system, some Members do participate in distributions which rely on the prospectus exemptions. Despite the fact investments in retail investment funds are not usually considered in the same way as is "capital raising" for small-to-medium

enterprises, prospectus-qualified retail investment funds represent a significant source of capital in Canada through the pooling of the relatively modest investments[1] of many individual investors. Fund assets pooled through those unitholder purchases are themselves invested by mutual funds in the capital markets in Canada as well as other jurisdictions. As such, retail funds are an important vehicle for capital raising.

While our comments are high-level and relate primarily to the lack of harmonization in the Proposed Amendments, we also have some comments on specific aspects of the Proposed Amendments.

Proposed Amendments actually "De-Harmonize" the Regime

We appreciate the difficult task of achieving a balance in having the lightest regulation to maintain market efficiency and cost-effectiveness, while maintaining sufficient requirements necessary to protect investors. The Proposed Amendments are intended, in part, to further harmonize the existing patchwork of rules and requirements applicable to the exempt market across Canada. While some progress has been made towards that end, more could have been done.

To provide one example, there currently exist two distinct models of offering memorandum (OM) exemptions in Canada: the first typically referred to as the "Alberta model" and the second as the "British Columbia" model. Ontario currently has no OM exemption, so the introduction of such an exemption in the Proposed Amendments is a positive development. However, with Ontario proposing to adopt its own "Ontario model" and the additional proposal by Quebec, Alberta and Saskatchewan to modify the existing Alberta model within those jurisdictions, Canada will have moved to four OM models, a doubling of the current number. For an issuer seeking to raise capital in more than one jurisdiction, this significantly adds to the expense and difficulty of using what is meant to be an efficient and relatively low-cost mechanism, without clear explanation of how the differences between jurisdictions improve investor protections. Even if the CSA jurisdictions, between themselves, have divergent views on what is an appropriate level of investor protection, given the benefit of the experiences of those jurisdictions that already have investor protections in place, an appropriate single set of protections should be attainable. The question we encourage you to consider is whether the needs of and requirements between the jurisdictions are so substantively different that they cannot be reconciled into a uniform requirement.

Exempt Trade Reports

The proposed new exempt trade reports create the biggest impact for investment funds. The Proposed Amendments will result in a number of different, but similar, trade reports to collect the same basic information regarding trades, and different and inconsistent requirements for filing the reports depending on the jurisdiction. In addition, much more information is being requested in these reports without any indication as to what use will be made of this additional information. Given the form's sole purpose is to report on the occurrence of a trade that relies on an exemption, it is unclear why one standardized trade report form could not be agreed upon. Again we ask: are the needs of and requirements between jurisdictions so substantively different that they cannot be reconciled into a uniform requirement?

Risk Acknowledgement Forms

The proposed new risk acknowledgement form for the accredited investor exemption will need to be signed by all of the issuer, the dealer and the investor. Language in the proposed amended Companion Policy suggests issuers will need to take enhanced measures to make sure they properly determine and confirm, by seeking additional information, that their investors are accredited investors, even if the transaction is intermediated by a dealer, in which case that issuer may have no direct relationship with the investor. The Proposed Amendments need to be clear to what extent the issuer may rely on an intermediating dealer to obtain this client information, and make this determination about the investor's qualification to use this exemption, thereby avoiding the duplication of effort of the issuer contacting the investor directly, which will

[1] The approximate average account size of clients of MFDA dealers is $38,000, and $70,000 in the IIROC channel.

surely create investor confusion. As the dealer must, in any event, perform know-your-client due diligence and assess the suitability of an investment for every investor it is advising, issuers should be permitted some degree of reliance on the intermediary, or on the information that the intermediary is providing to the issuer about the prospective investor, unless the issuer has reason to believe the dealer has not met its obligations in this regard.

While we acknowledge regulators are aware of these concerns, the ASC release notes "In the second phase, our goal is that members of the CSA engage in revisiting both the offering memorandum form disclosure requirements and work towards a harmonized risk acknowledgement form", we strongly urge that this "revisit" occur before the next release of the current Proposed Amendments, to avoid creating, even temporarily, a more complex patchwork of rules than currently exists.

Proposed Regulatory Regime for Crowdfunding

IFIC Members support a robust disclosure model with respect to investment funds and competing securities products, and believe that all investors should receive clear disclosure containing appropriate and relevant information. Investor experience also shows that those who use advisors reap durable economic benefits and are better off than those who choose to invest without advice. As such, for the vast majority of individual investors we believe that advice together with good disclosure is the preferred model for investment.

At the same time, we recognize that there are many types of investors, and the full prospectus distribution route does come with some cost. There is certainly a segment of investors who are independently qualified or otherwise self-sufficient to conduct or obtain the appropriate due diligence they require to invest and to manage their investments with full knowledge and assumption of the risks. This divergence of capital raising needs and ready availability of willing investors, suggests the need to preserve choice in the markets.

We agree that a clear regulatory framework is necessary before crowdfunding should be permitted to as an exempt capital raising channel. Since crowdfunding is designed to permit retail investors to participate in ventures by making relatively small investments, a strong framework that mandates the provision to investors of sufficient information about the investment at and subsequent to purchase, and that regulates and supervises the portal intermediary is essential for investor protection.

The portal is clearly the foundation of the crowdfunding model to connect issuers to investors. Robust and thorough regulatory oversight of and compliance responsibility within these portals is essential. The OSC's concept, for example, requires crowdfunding portals to be registered as restricted dealers, which provides a degree of oversight. Given the extremely wide variety of possible businesses which crowdfunding issuers may operate, it is unclear, however, as to how much regulatory oversight of portals will be required to ensure portals always perform the appropriate amount of due diligence of issuers and investors in each case. For example, the surge in demand by small businesses to become medical marijuana growers suggests such start-ups may seek funds through crowdfunding. Will the portal know to seek confirmation that every such an issuer is licensed and authorized by the government to operate such a business for which it seeks funding?

Another concern comes out of the recent "Crackstarter" crowdfunding campaign where the proposed use of funds could not be achieved and the net proceeds funds were donated to charities of the issuer's choice. Although not an equity crowdfunding offering, we suggest the proposed regime for all crowdfunding require disclosure in the pre-sale information of any alternative use of the proceeds, should the original business case not succeed, or minimum capital raising thresholds not be achieved, as well as the investors' rights and remedies in such cases, including the right to receive refunds of their full investments. On a related note, we recommend a requirement in the crowdfunding proposal for detailed pre-sale disclosure of the fees that will be deducted from the proceeds raised, whether by the issuer, portal, payment processers or any other parties involved in the transaction. We appreciate the financial statements will subsequently report "use of proceeds" information, including expenses incurred, but investors should be aware of anticipated fees before making their investments.

As Canada does not control access by its citizens to foreign websites, we wonder whether the CSA has sufficient resources to monitor every "portal" that is accessible to Canadians, and to confirm it is domiciled and registered in Canada, and meets all regulatory obligations . The online gaming industry provides a good example of how difficult it is to monitor online businesses that may be domiciled in other jurisdictions. How will Canadians who visit crowdfunding portals be assured they are dealing with a portal licensed and regulated by the CSA?

It remains to be seen whether the ready availability of crowdfunding investment opportunities through the internet, without any degree of KYC and suitability assessment of an investment for any particular investor poses a particular risk for older investors who may be more inclined to accept the marketing materials on face value.

While the proposal imposes limits on investments, requires investors to sign a risk acknowledgement form and provides them a two-day cooling-off period, investors are permitted to self-certify compliance without any third party monitoring of these limits generally, particularly if investors put their money through numerous portals each year. Individual management of such cumulative thresholds can be very challenging, even for sophisticated investors; one need only reflect on the difficulties taxpayers have had understanding the TFSA contribution rules, with the result of widespread over-contributions. Given the variety of possible crowdfunding business cases it is to be expected that individual investors' cumulative exposure to investments through this channel over several years can become quite significant and even match the average size of investments in mutual funds noted earlier. For this reason, small investment amounts should not be the primary investor protection consideration. In the retail mutual fund industry for example, it is very common for investors to make small initial (as low as $500) and subsequent (as little as $50) investments, yet they are still protected by all of the thorough regulatory requirements applicable to mutual funds, including prospectus qualification and distribution only through licensed and regulated distributors.

We note that the crowdfunding proposal allows issuers to post all pre-sale information about the opportunity on the portal; there is no requirement to physically deliver it to a potential investor before purchase. This presents the CSA with the opportunity to assess whether an 'access equals delivery' model can fully satisfy the investment information needs of investors and we encourage you to share the results broadly with a view to considering whether there may be broader application of the approach in the retail investment context.

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Thank you for providing our Members with an opportunity to comment on the Proposed Amendments. Should you have any questions or wish to discuss these comments, please contact me by phone at 416-309-2314 or by email at rhensel@ific.ca.

Yours truly,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

By: Ralf Hensel
General Counsel, Corporate Secretary and Director of Policy